

FACE SHEET

SUBMITTED FOR REVIEW

MAR 02 1987

OFFICE OF ADMINISTRATIVE LAW

ENDORSED  
APPROVED FOR FILING

MAR 30 1987

Office of Administrative Law

For use of Office of Adm Law

FOR FILING ADMINISTRATIVE REGULATIONS  
WITH THE OFFICE OF ADMINISTRATIVE LAW

CERTIFICATION: I hereby certify that the attached are true and correct copies of regulations adopted, amended or repealed by this agency and that the information specified on this Face Sheet is true and correct.

State Department of Social Services

(AGENCY)

*James S. McArthur*  
AGENCY OFFICER WITH RULEMAKING AUTHORITY

Date: 2/27/87

RDB #1086-46

FILED  
In the office of the Secretary of State  
of the State of California

APR 01 1987

MARCH FONG EU, Secretary of State

By *John Bates*  
Deputy

For use by Secretary of State only

1. AGENCY CONTACT PERSON FOR THIS FILING (See instructions) TITLE TELEPHONE  
Rosalie Clark, Chief Regulations Development Bureau 445-0313
2. Type of filing, (check one) ☒ 30-day Review ☐ Emergency ☐ Certificate of Compliance (Complete Part 4 below)  
☐ Regulatory changes resulting from Govt. Code 11349.7 review (Complete Part 6 below)  
☐ Nonsubstantive changes with nonregulatory effect ☐ Printing Error Correction
3. a. Specify California Administrative Code title and sections as follows:  
Title 22 SECTIONS ADOPTED:  
63-066; 63-300.519; 63-403.331, .333, .334, .34; and 63-502.2j. (12)  
SECTIONS AMENDED:  
(See attached list)  
SECTIONS REPEALED:  
63-300.519, .531(b); 63-501.521(d); 63-504.43; and 63-505.33
- b. The following sections listed in 3a contain modifications to the text originally made available to the public:
4. CERTIFICATE OF COMPLIANCE (Government Code Section 11346.1(e): The above-named agency officer certifies that this agency complied with the provisions of Government Code Sections 11346.4-11346.8. (Check one)  
☐ prior to the emergency adoption  
☐ within 120 days of the effective date of the emergency adoption of the above-referenced regulations.
5. Is this filing a resubmittal of a previously disapproved or withdrawn regulation?  
☒ No ☐ Yes, if yes, give date(s) of prior submittal(s) to OAL:
6. Is the filing submitted to carry out amendments or repeals identified in the statement of review completion submitted as a result of the agency's review of regulations administered by it as of June 30, 1980?  
☒ No ☐ Yes, if yes, give date statement was submitted to OAL
7. If these regulations required prior review and approval or concurrence by any of the following agencies, check appropriate box(es)  
☐ Fair Political Practices Commission (Include FPPC approval stamp) ☐ Building Standards Commission (Attach approval)  
☐ State Fire Marshall (Attach approval) ☐ Department of Finance (Attach properly signed Std. 399)  
☐ Other \_\_\_\_\_ (SPECIFY AGENCY)
8. a. PUBLICATION DATE OF NOTICE IN CALIFORNIA ADMINISTRATIVE NOTICE REGISTER November 28, 1986  
b. DATE OF FINAL AGENCY ACTION February 27, 1987  
c. DATES OF AVAILABILITY OF MODIFIED REGULATION(S) (GOVT. CODE SEC. 11346.8(c)) N/A
9. Effective date of regulatory changes: (See Government Code Section 11346.2 and instructions on reverse)  
a. ☐ Effective 30th day after filing with the Secretary of State.  
b. ☐ Effective upon filing with the Secretary of State.  
c. ☐ Effective on \_\_\_\_\_ as required or allowed by the following statute(s):  
d. ☒ Effective on April 1, 1987. (Designate effective date earlier than 30 days after filing with the Secretary of State pursuant to Govt. Code Sect. 11346.2(d).)  
Attach request demonstrating good cause for early effective date. Request subject to OAL approval.  
e. ☐ Effective on \_\_\_\_\_ (Designate effective date later than the normal effective date for the type of order filed.)



## INSTRUCTIONS FOR STD 400

Completed Face Sheet for Filing Regulations with the Office of Administrative Law must be attached to the front of each of the seven copies of the regulations. Note that at least one Face Sheet must contain an original signature of the agency officer with rulemaking authority.

- Part 1. Provide the name and telephone number of the person who is authorized during the review period to answer questions regarding this regulatory filing. If different than person designated in certification box, attach order delegating authority for making decisions regarding these regulations.
- Part 2. Check the appropriate box. NOTE: Nonsubstantive changes are reviewed by and are subject to OAL approval.
- Part 3 a. Provide the Administrative Code Title in which the regulation will appear and list *section* number of each regulation to be amended, adopted or repealed. *When filing a Certificate of Compliance list the section number of each emergency regulation formally adopted after completion of the rulemaking procedures of the APA.* (Attach additional sheets if necessary.)
- b. Please list the section number of each regulation which includes modifications to the text to the regulations originally made available to the public pursuant to Government Code Section 11346.5(b), and adopted, amended or repealed as modified pursuant to Government Code Section 11346.8(c). The sections listed here must correspond to the sections which were made available for 15 days pursuant to Government Code Section 11346.8(c).
- Part 4. Check appropriate box as necessary to comply with the requirements of Government Code Section 11346.1(e).
- Part 5. Specify date(s) and file number(s) of each prior submittal of these regulatory changes which was withdrawn or disapproved.
- Part 6. OAL has a longer time period to review regulatory changes submitted to carry out amendments and repeals which are identified in the agency's Statement of Review Completion and which have been submitted as a result of the agency's review of regulations administered by it as of June 30, 1980. Therefore, these regulatory changes should be submitted in a separate filing from any other regulatory changes. If not submitted separately, regulations not resulting from the review and any material in the rulemaking file relating to them must be clearly identified.
- Part 7. Certain regulatory activities must be reviewed and approved by other state agencies prior to submittal to OAL. Regulations subject to prior approval include:
- Fire and panic safety regulations (Govt. Code Sec. 11342.3.).
  - Building standards as defined in Section 18909 of the Health and Safety Code (Govt. Code Sec. 11343).
  - Conflict of Interest regulations (Title 2 California Admin. Code Section 18750(i)).
- Note: Where regulations have a fiscal impact on state, local or federal government or result in reimbursable costs to local government or school districts the fiscal impact statement must be reviewed, approved and signed by the Department of Finance before the regulations will be accepted for filing by OAL. See Government Code Sections 11349.1, 11346.5(a)(6), and S.A.M. sections 6050-6057.
- Part 8 a. Provide the publication date of the Notice Register in which the notice of proposed action appeared.
- b. Provide the date on which the regulatory agency adopted the regulatory changes.
- c. If the regulations were modified subsequent to the hearing or written comment period, provide the dates during which the modified regulations were made available to the public. Note that period must be at least 15 days and must be completed prior to the date the agency adopts the modified text. All modifications must be clearly indicated.
- Part 9. Effective Dates — check one of the following:
- A regulation or order of repeal is effective 30 days after filing with the Secretary of State unless a different date is specified below.
  - An emergency order, Certificates of Compliance or nonsubstantive change is effective upon filing with the Secretary of State unless a later date is specified below.
  - If an effective date other than specified above is required or allowed by statute, provide the date and the statutory citations(s).
  - If an early effective date is being requested, please attach a letter specifying the date the regulation(s) should take effect and the reason for the early effective date. Requests are granted by OAL upon a showing of good cause.
  - If an effective date later than specified above is requested, provide the date.

### FILING REQUIREMENTS

The following material must be submitted when filing regulations with OAL:

- Seven (7) copies of the regulations. Note: Use underline and strikeout to indicate changes in an existing section. For adoption of a new section, underline new text. The repeal of an entire section may be indicated by placing a diagonal slash through the text to be repealed.
- A completed Face Sheet for filing regulations with the Office of Administrative Law, Form STD 400 attached to the front of each copy of the regulations, with at least one Face Sheet bearing an original signature.
- Complete rulemaking file, with index and sworn statement. (See Govt. Code Sec. 11347.3 for full list of rulemaking contents.)

FACE SHEET  
(Continued)

RDB #1086-46

3.a.Sections Amended:

63-102(d), (e) (1), (s) (4), (s) (8), (t) (2), 63-300.34, .531(a); 63-401;  
63-402.3, .612, .642; 63-403.14, .17, .2, .21, .321(b), .322, .33, .332,  
.341, .342, .346, .348; 63-501.3d., e., k., k. (12), .521; ~~63-502.353,~~  
.361, .363; 63-503.24, ~~.254~~ .412(a), .491(a), .492, .493; 63-504.251,  
.267, .391(b), .42, .43, .434, .435, .46, .61, .62, .63, .64; 63-505.1,  
.2; 63-601.1, 63-801.431, and 63-804.1

*disapproved*

Adopt new Section 63-066 to read:

63-066      IMPLEMENTATION OF OBRA AND NONDISCRETIONARY #2      63-066

.1 Sections 63-102(e)(1), (s)(8); 63-300.531(a) and (b); 63-401; 63-502.353; 63-502.361; 63-502.363; 63-503.254; 63-503.412; 63-504.42, .43, .431, .432, .433, .434, .44, and .47; 63-601.1, .13, and .14 as amended and Sections 63-300.51; 63-503.256; 63-503.412(a)(1); 63-505.211 and .212; 63-601.12 as adopted herein shall become effective April 1, 1987 and implemented as follows:

.11 CWDs shall provide restored benefits to entitled households pursuant to these provisions back to August 1, 1986. All restorations shall be completed either upon request or no later than at recertification or termination.

.12 Beginning April 1, 1987 CWDs shall implement the required program changes for all new applications.

.2 Sections 63-102(s)(4) and (t)(2); 63-300.34; 63-402.3, .612, and .642; 63-403.14, .17, .2, and .21; 63-403.321(b) and (b)(1); 63-403.33, .331, .332, .341, .342, .343, .344, .345, .346, .347, and .348; 63-501.3(d), (e), and (k); 63-503.491(a), .492(a), (b), (c), and (d), .493; 63-504.266, .39, .611, .612, .613, .615, .618, .619, .621, .622, .623, .624, .632, .633, and .643; and 63-505.33 and .34; 63-801.431 as amended, and Sections 63-102(d)(1); 63-403.333, .334, and .34; 63-501.3(k)(12); 63-502.2(j); 63-503.492(e); 63-504.614, .616, and .617 as adopted herein, shall become effective April 1, 1987 and implemented as follows:

.21 Beginning April 1, 1987 CWDs shall implement the required program changes for all new applications.

.22 Currently certified households shall be converted to the required program changes at the time of recertification or any time a case file is reviewed prior to recertification.

Authority:      Welfare and Institutions Code Sections 10553 and 18904.

Reference:      Welfare and Institutions Code Sections 18901 and 18902; and 7 CFR 272.1(g).



Amend Section 63-102d(1) and renumber existing Sections 63-102d(1), (2), (3), (4), and (5) to d(2), (3), (4), (5), and (6) to read:

63-102 DEFINITIONS (Continued)

63-102

d. (1) "Date of entry" or "Date of admission" means the date established by the Immigration and Naturalization Service as the date the sponsored alien was admitted for permanent residence.

(~~1~~2) (Continued)

(~~2~~3) (Continued)

(~~3~~4) (Continued)

(~~4~~5) (Continued)

(~~5~~6) (Continued)

Authority: Welfare and Institutions Code Sections 10553 and 18904.

Reference: Welfare and Institutions Code Section 18902 and 7 CFR 273.11(h)(1).

Amend Section 63-102e(1) to read:

63-102 DEFINITIONS (Continued)

63-102

- e. (1) "Elderly or disabled member" means a member of a household who: (1) is 60 years of age or older; (2) receives disability or blindness payments under Title II of the Social Security Act; (3) receives disability retirement benefits from a governmental agency because of a disability considered permanent under Section 221(i) of the Social Security Act; (34) is a veteran with a service-connected or nonservice-connected disability rated by the Veteran's Administration (VA) as total or paid as total by the VA under Title 38 of the United States Code; or is (5) is a veteran considered by the VA to be in need of regular aid and attendance or permanently housebound under such Title 38 of the United States Code; (46) is a surviving spouse of a veteran and considered by the VA to be in need of regular aid and attendance or permanently housebound or a surviving child of a veteran and considered by the VA to be permanently incapable of self-support under Title 38 of the United States Code; or (57) is a surviving spouse or surviving child of a veteran and considered by the VA to be entitled to compensation for a service-connected death or pension benefits for a nonservice-connected death under Title 38 of the United States Code and has a disability considered permanently under Section 221(i) of the Social Security Act. "Entitled" as used in this definition refers to those veterans' surviving spouses and surviving children who are receiving the compensation or pension benefits stated or have been approved for such payments, but are not yet receiving them; or (8) receives an annuity payment under Section 2(a)(1)(iv) of the Railroad Retirement Act of 1974 and is determined to be eligible to receive Medicare by the Railroad Retirement Board; or Section 2(a)(1)(iv) of the Railroad Retirement Act of 1974 and is determined to be disabled based upon the criteria used under Title XVI of the Social Security Act.

Authority: Welfare and Institutions Code Sections 10553 and 18904.



Reference: Welfare and Institutions Code Section 18902 and 7  
CFR 271.2.

Amend Sections 63-102s(4) and (8) to read:

63-102 DEFINITIONS (Continued)

63-102

s. (Continued)

- (4) "Sponsored alien" means those an aliens lawfully admitted for permanent residence into the United States as an immigrants as defined in Sections 101(a)(15) and 101(a)(20) and supported by a sponsor in order to overcome ~~Section 212(a)(15)~~ of the Immigration and Nationality Act.
- (5) (Continued)
- (6) (Continued)
- (7) (Continued)
- (8) "Supplemental Security Income (SSI)" means monthly cash payments made under the authority of: (1) Title XVI of the Social Security Act, as amended, to the aged, blind, and disabled; (2) Section 1616(a) of the Social Security Act; or (3) Section 212(a) of Public Law 93-66.

Authority: Welfare and Institutions Code Sections 10553 and 18904.

Reference: Welfare and Institutions Code Section 18902 and 7 CFR 271.2, 273.11(h)(1) and 273.4(a)(2).



Amend Section 63-102t(2) to read:

63-102 - DEFINITIONS (Continued)

63-102

t. (Continued)

- (2) "Thrifty food plan" means the diet required to feed a family of four persons as consisting of a man and a woman 20 through 54, a child six through eight, and a child nine through 11 years of age, determined in accordance with the Secretary's calculations. The cost of such diet shall be the basis for uniform allotments for all households regardless of their actual composition, except that the Secretary shall make household-size adjustments in the thrifty food plan taking into account economies of scale.

Authority: Welfare and Institutions Code Sections 10553 and 18904.

Reference: Welfare and Institutions Code Section 18902 and 7 CFR 271.2.

Amend Section 63-300.34 to read:

63-300 APPLICATION PROCESS (Continued)

63-300

.3 Filing, Notice of Right to File and Withdrawal (Continued)

.34 Contacting the Food Stamp Office

The CWD shall encourage households to file an application form the same day the household or its representative contacts the food stamp office in person or by telephone and expresses interest in obtaining food stamp assistance. If a household contacting the food stamp office by telephone does not wish to come to the appropriate office to file the application that same day and instead prefers receiving an application through the mail, an application form shall be mailed to the household on the same day the telephone request is received. An application shall also be mailed on the same day a written request for food assistance is received.

Where the CWD has designated certification offices to serve specific geographic areas, households may contact an office other than the one designated to service the area in which they reside. If a household contacts the wrong certification office within the county, either in person or by telephone, the certification office shall, in addition to meeting the above requirements, give the household the address and telephone number of the appropriate office. The certification office shall also offer to forward the household's application to the appropriate office on that same day if the household has completed enough information on the application to file. The household shall be informed that its application will not be considered filed and the processing standards shall not begin until the application is received by the appropriate office. If the household has mailed its application to the wrong office the certification office shall mail the application to the appropriate office on the same day as received. The filing date will be the day the appropriate office receives the application.

The CWD shall make application forms readily accessible to potentially eligible households and those groups and organizations involved in outreach efforts. The application form shall be provided to anyone who requests the form.



**Authority:** Welfare and Institutions Code Sections 10553 and 18904.

**Reference:** Welfare and Institutions Code Section 18902 and 7 CFR 273.2(c)(3) and (4).

Repeal ~~existing~~ Section 63-300.519 and readopt new Section 63-300.519 to read:

63-300 APPLICATION PROCESS (Continued)

63-300

.5 Verification (Continued)

.51 Mandatory Verification (Continued)

~~.519~~ Questionable Eligibility Requirements

Households applying after 95 days from the end of the annual review period in which the household refused to cooperate with a SE reviewer shall provide verification of all eligibility requirements including items that would normally only be verified if questionable as specified in Section 63-300.53.

.519 Disability

The CWD shall verify disability as defined in Section 63-102(e)(1) as follows:

- (a) For an individual to be considered disabled under clause (2) of the definition, the household must provide proof that the disabled individual is receiving benefits under Title II of the Social Security Act.
- (b) For an individual to be considered disabled under clause (4) of the definition, the household must provide a statement from the VA which indicates that the disabled individual is receiving VA disability benefits for a service - or nonservice-connected disability which is rated or paid at the total rate by VA.
- (c) For an individual to be considered disabled under clauses (5) and (6) of the definition, proof by the household that the disabled individual is receiving VA disability benefits is sufficient verification of disability.
- (d) For an individual to be considered disabled under clauses (3) and (7) of the definition, the CWD shall use the Social



Security Administration's (SSA) most current list of disabilities considered permanent under the Social Security Act for verifying disability.

(1) If it is obvious to the FW that the individual has one of the listed disabilities on SSA's most current list of permanent disabilities, the household shall be considered to have a verified disability.

(2) If the disability is not obvious to the FW, the household shall provide a statement from a physician or licensed/certified psychologist certifying that the individual has one of the nonobvious disabilities listed on the SSA listing of permanent disabilities.

(e) For an individual to be considered disabled under clause (8) of the definition, the household shall provide proof that the individual receives a Railroad Retirement disability annuity from the Railroad Retirement Board and has been determined to qualify for Medicare.

(f) For disability determinations which must be made relevant to Section 63-402.15, the FW shall verify that an individual has a permanent disability by using the SSA listing of disabilities. However, only those individuals who suffer from one of the disabilities mentioned in the SSA list who are unable to purchase and prepare meals because of their disability shall be considered disabled for the purpose of this provision.

(1) If it is obvious to the FW that the individual is unable to purchase and prepare meals because he/she suffers from a severe physical or mental disability even if their disability is not mentioned on the SSA list of disabilities, he/she shall be considered disabled.

(2) If the disability is not obvious, the EW shall verify the disability by requiring a statement from a physician or licensed/certified psychologist certifying that the individual is unable to purchase and prepare meals because he/she suffers from: (1) a nonobvious disability mentioned in the SSA list; (2) some other severe, permanent physical or mental disease-related disability; or 3) a severe and permanent physical or mental nondisease-related disability.

(3) The elderly and disabled individual or his/her authorized representative shall be responsible for obtaining the cooperation of the individuals with whom he/she resides in providing the necessary income information about the others to the CWD for purposes of this provision.

Authority: Welfare and Institutions Code Sections 10553 and 18904.

Reference: Welfare and Institutions Code Sections 18901 and 18902; 7 CFR 273.2(f)(1)(viii)(A) and (8), 273.2(f)(1)(viii)(A)(1 through 5), and 273.2(f)(1)(viii)(A)(2).

Repeal Section 63-300.531(b) and amend Section 63-300.531(a) to read:

63-300 APPLICATION PROCESS (Continued)

63-300

•5 Verification (Continued)

•53 Verification of Questionable Information (Continued)

•531 Household Composition

~~a~~The eligibility worker shall verify any factors affecting the composition of a household if questionable.

(a) Individuals who wish claim to be a separate household from those with whom they reside shall be responsible for proving that they are a separate household.

(b) Individuals described in Section 63-402.15, who wish claim to be a separate household from those with whom they reside based on the various age and disability factors for determining separateness shall also be responsible for obtaining the cooperation of the individuals with whom they reside in handled as specified providing necessary income information to the eligibility worker, and for providing (at eligibility worker request) a physician's statement that they cannot purchase and prepare their own meals in Section 63-300.519(f).

~~b~~ For any household member affirming a permanent disability that is questionable (not apparent) to the eligibility worker, under clause (5) of the definition of "Elderly or disabled member" as defined in Section 63-182(f), the household shall provide (at eligibility worker request) a statement from a physician or licensed or certified psychologist to assist the eligibility worker in making a disability determination.

Authority: Welfare and Institutions Code Sections 10553 and 18904.

Reference: Welfare and Institutions Code Section 18902 and 7 CFR 273.2(f)(1)(viii)(B) and 273.2(f)(2)(i).

Amend Section 63-401 to read:

63-401 RESIDENCY

63-401

A household must be living in the county in which it files an application for participation. No individual may participate as a member of more than one household, or in more than one county in any month except for eligible residents of shelters for battered women and children (see Section 63-503.46) who were program participants in the dwelling of the abuser. The CWD shall not interpret residency to mean domicile which is sometimes defined as a legal place of residence or principle principal home. The CWD shall not impose any durational residency requirements. ~~A fixed residency is not required; for example, migrant campsites satisfy the residency requirements.~~ The CWD shall not require an otherwise eligible household to reside in a permanent dwelling or have a fixed mailing address as a condition of eligibility. Nor shall residency require an intent to reside permanently in the county. Persons in a county solely for vacation purposes shall not be considered residents.

Authority: Welfare and Institutions Code Sections 10553 and 18904.

Reference: Welfare and Institutions Code Section 18902 and 7 CFR 273.3.

Amend Section 63-402.3 introductory paragraph to read:

63-402 HOUSEHOLD CONCEPT (Continued)

63-402

.3 Boarders

For Program purposes, a boarders ~~is~~ are defined as an individuals or groups of individuals residing with the household and paying reasonable compensation to the household for lodging and meals excluding residents of a commercial boarding house. (See Section 63-402.32.). A reasonable monthly payment shall be either of the following: (Continued)

Authority: Welfare and Institutions Code Sections 10553 and 18904.

Reference: Welfare and Institutions Code Section 18902 and 7 CFR 273.1(c)(1).



Amend Section 63-402.614 to read:

63-402 HOUSEHOLD CONCEPT (Continued)

63-402

.6 Authorized Representatives (Continued)

.61 (Continued)

.612 Obtaining the coupons. An authorized representative may be designated to obtain coupons. These designations shall be made at the time the application is completed and any authorized representative shall be named on the ID card. The authorized representative for coupon issuance may be the same individual designated to make application for the household or may be another individual. Even if a household member is able to make application and obtain coupons, the household should be encouraged to name an authorized representative for obtaining coupons in case of illness or other circumstances which might result in an inability to obtain coupons. The household may also designate an emergency authorized representative at a later date. An emergency authorized representative is someone who obtains coupons when neither a household member nor the authorized representative is able to obtain them because of unforeseen circumstances. The CWD shall provide for a system, which meets the requirements of Section 63-602, to permit the designation, in writing, of an emergency authorized representative to obtain coupons with a particular AFP.

Authority: Welfare and Institutions Code Sections 10553 and 18904.

Reference: Welfare and Institutions Code Sections 18901 and 18902; 7 CFR 273.1(f)(1)(ii).

Amend Section 63-402.642 to read:

63-402 HOUSEHOLD CONCEPT (Continued)

63-402

.6 Authorized Representatives (Continued)

.64 (Continued)

.642 Individuals disqualified for fraud intentional Program violation shall not act as authorized representatives during the period of disqualification, unless the individual disqualified is the only adult member of the household able to act on its behalf and the CWD has determined that no one else is available to serve as an authorized representative. The CWD shall separately determine whether these individuals are needed to apply on behalf of the household, to obtain coupons, and to use the coupons for food for the household. For example, the household may have an authorized representative to obtain its coupons each month, but not be able to find anyone to purchase food regularly with the coupons. If the CWD also is unable to find anyone to serve as an authorized representative to purchase food regularly with the coupons, the disqualified member shall be allowed to do so.

Authority: Welfare and Institutions Code Sections 10553 and 18904.

Reference: Welfare and Institutions Code Section 18902 and 7 CFR 273.1(f)(4)(ii).

Amend Sections 63-403.14 and .17 to read:

63-403 CITIZENSHIP AND ALIEN STATUS (Continued)

63-403

.1 Citizens and Eligible Aliens (Continued)

- .14 An alien who is qualified for conditional entry because of persecution or fear of persecution on account of race, religion, or political opinion or because of being uprooted by a catastrophic natural calamity pursuant to Section 203(a)(7) prior to April 1, 1980, Section 207, or Section 208 of the INA.
- .15 (Continued)
- .16 (Continued)
- .17 An alien living within the United States to whom the Attorney General has withheld deportation pursuant to Section 243(h)(1) of the INA, because of the judgment of the Attorney General that the alien would otherwise be subject to persecution on account of race, religion, or political opinion.

Authority: Welfare and Institutions Code Sections 10553 and 18904.

Reference: Welfare and Institutions Code Sections 18901 and 18902; 7 CFR 273.4(a)(4) and 273.4(a)(7).

Amend Sections 63-403.2 to read:

63-403 CITIZENSHIP AND ALIEN STATUS (Continued)

63-403

•2 Ineligible Aliens

No ~~a~~Aliens other than those described above shall not be eligible to participate in the program as a member of any household. Among those excluded are This includes, but is not limited to, alien visitors, tourists, diplomats and students who enter the United States temporarily with no intention of abandoning their residence in a foreign country.

•21 Income and Resources

The income and resources of an ineligible alien who would be considered a household member if it were not for his/her ineligible alien status shall be determined available to the household in accordance with handled as outlined in Section 63-503.44.

Authority: Welfare and Institutions Code Sections 10553 and 18904.

Reference: Welfare and Institutions Code Sections 18901 and 18902; 7 CFR 273.4(b) and (c).

Amend Sections 63-403.321b and .322 to read:

63-403 CITIZENSHIP AND ALIEN STATUS (Continued)

63-403

.3 Verification (Continued)

.32 Verification of Alien Status (Continued)

.321 (Continued)

- b. Aliens in the categories specified in Sections 63-403.14 through 63-403.16 shall present an INS form I-94 -- "Arrival-Departure Record." The county welfare department CWD shall accept the INS form I-94 as verification of eligible alien status only if the form is annotated with Section 203(a)(7) prior to April 1, 1989, Section 207, Section 208, Section 212(d)(5), or Section 243(h)(1) of the Immigration and Nationality Act; or if the form is annotated with one of the following terms or a combination of the following terms: Refugee, parolee, paroled, conditional entry or entrant, or asylum. An INS form I-94 annotated with the letters (A) through (L) shall be considered verification of ineligible alien status unless the alien can provide other documentation from INS which indicates that the alien is eligible. If the INS form I-94 does not bear any of the above annotations and the alien has no other verification of alien classification in his or her possession, the county welfare department CWD shall advise the alien: Immigration and Nationality Act shall result in eligible status; that the alien may be eligible if acceptable verification is obtained; that if the alien wishes and signs a written consent, the CWD will contact INS to obtain clarification of the alien status and that the alien may contact INS or otherwise obtain the necessary verification.

- (1) That classification under Section 203(a)(7) prior to April 1, 1989, Section 207, Section 208, 212(d)(5).

or 243(h) of the Immigration and Nationality Act shall result in eligible status;

- (2) that the alien may be eligible if acceptable verification is obtained;
- (3) that if the alien wishes and signs a written consent (consent form to be provided by DSS), the CWO will contact INS to obtain clarification of the alien's status or that the alien may contact INS or otherwise obtain the necessary verification.
- (4) that INS Form G-641, Application for Verification of Information from Immigration and Naturalization Service Records, is acceptable verification of eligible alien status if properly annotated by an INS representative as evidence of lawful admission for permanent resident of parole for humanitarian purposes.

.322 If the proper INS documentation is not available, the alien may state the reason and submit other conclusive verification. The CWO shall accept other forms of documentation or corroboration from INS that the alien is classified pursuant to Section 101(a)(15), 101(a)(20), ~~203(a)(7)~~ prior to April 1, 1989, Section 207, Section 208, 212(d)(5), 243(h)(1), or 249 of the Immigration and Nationality Act, or other conclusive evidence such as a court order stating that deportation has been withheld pursuant to Section 243(h) of the Immigration and Nationality Act. Properly completed INS Forms I-181-B and G-641 shall also be acceptable verification of eligible alien status.

Authority: Welfare and Institutions Code Sections 10553 and 18904.

Reference: Welfare and Institutions Code Sections 18901 and 18902; 7 CFR 273.2(f)(1)(ii)(C).



Renumber Sections 63-403.331 through .338 to .341 through .348, respectively; add new Sections 63-403.333, .334 and .34; and amend Section 63-403.33, and new Sections 63-403.341 through .347 to read:

63-403 CITIZENSHIP AND ALIEN STATUS (Continued)

63-403

.3 Verification (Continued)

.33 Verification Responsibilities of Sponsored Aliens

For a period of three years from the alien's date of entry or date of admission as a lawful permanent resident, the sponsored alien and his/her spouse are shall be responsible for the following:

.331 Obtaining the cooperation of his/her sponsor.

.332 Providing the CWD at the time of application and at the time of recertification with any information and/or documentation necessary to determine the calculate the deemed income and resources of the alien's sponsor and the sponsor's spouse, for three years from the alien's date of entry or date of admission as a lawful permanent resident. The alien or the alien's spouse shall submit the following information on forms prescribed by 5855:

.333 Providing the names (or other identifying factors) of other aliens for whom the alien's sponsor has signed an agreement to support.

.334 Reporting the required information about the sponsor and sponsor's spouse should the alien obtain a different sponsor during the certification period and for reporting a change in income should the sponsor or the sponsor's spouse change or lose employment or die during the certification period. Such changes shall be handled in accordance with the timeliness standards and procedures described in Sections 63-505.3 and .5 as appropriate.

.34 Verification Responsibilities of the CWD

The CWD shall obtain from the alien the following information at the time of the household's initial

application and at the time the household applies for recertification:

- .3341 The income and resources of the alien's sponsor and the sponsor's spouse (if living with the sponsor), at the time of the alien's application for food stamp assistance.
- .3342 The names or other identifying factors (such as an alien registration number) of other aliens for whom the sponsor has signed an affidavit of support or similar agreement, if applicable.
- .3343 The provisions of the Immigration and Nationality Act under which the alien was admitted.
- .3344 The date of the sponsored alien's entry or admission as a lawful permanent resident as established by INS.
- .3345 The alien's date of birth, place of birth, and alien registration number.
- .3346 The number of dependents who are claimed or could be claimed as dependents by the sponsor or the sponsor's spouse for federal income tax purposes, of the sponsor and the sponsor's spouse.
- .3347 The name, address and phone number of the alien's sponsor.
- .3348 Verification is required for the information specified in Sections 63-403.3341 and .3342 except as specified in Section 63-301.71. The CWO shall verify all other information which they have determined to be questionable and which affects household eligibility and/or benefit level in accordance with Section 63-300.53, for verifying questionable information. The CWO shall assist aliens in obtaining verification in accordance with Section 63-300.55.

Authority: Welfare and Institutions Code Sections 10553 and 18904.

Reference: Welfare and Institutions Code Sections 18901 and 18902; 7 CFR 273.11(h)(4) and 273.11(h)(5).

Amend Sections 63-501.3d and e to read:

63-501 RESOURCE DETERMINATIONS (Continued)

63-501

.3 Exclusions from Resources (Continued)

- d. Property which annually produces income consistent with its fair market value, even if only used on a seasonal basis. Such property shall include rental homes and vacation homes. To determine if property is producing income consistent with its fair market value, the EW may utilize AFBE criteria or contact local realtors, local tax assessors, the Small Business Administration, Farmer's Home Administration, or other similar sources to determine the prevailing rate of return, e.g., square foot rental, for similar usage of real property in the area. If the property is being leased for a return that was comparable to other property in the area leased for similar purposes, it would be considered as producing income consistent with its fair market value and would not be considered a resource. All findings should be thoroughly documented in the case file.

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To determine if property is producing income consistent with its fair market value, the CWD may contact local realtors, local tax assessors, the Small Business Administration, Farmer's Home Administration, or other similar sources to determine the prevailing rate of return. Newspaper classified advertisements can also be used as a resource.

Property may be considered as producing income consistent with its fair market value when the property earns the prevailing rate of return for similar usage of similar property in the area.

Net return is determined by deducting allowable expenses. If the property is vacant for some portion of the year, only the prorated percentage of return which is for the period of occupancy shall be considered. All findings/determinations should be documented in the case file.

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- e. Property such as farm land and rental homes, or work-related equipment, such as the tools of a tradesman or the machinery of a farmer, which is essential to the employment or self-employment of a household member, except that rental homes which are used by households for vacation purposes at some time during the year shall

be counted as resources unless excluded by paragraph d of this section.

Resources of a business that are separate and identifiable, such as but not limited to a checking account for the business, shall be considered exempt resources until such time as they are commingled or become unidentifiable.

Authority: Welfare and Institutions Code Sections 10553 and 18904.

Reference: Welfare and Institutions Code Sections 10553 and 18902; and 7 CFR 273.8(e)(4) and (5).

Amend Section 63-501.3k Introductory paragraph and add Section 63-501.3k(12) to read:

63-501 RESOURCE DETERMINATIONS (Continued)

63-501

•3 Exclusions from Resources (Continued)

- k. Resources which are excluded for food stamp purposes by express provision of Ffederal statute. The following is a the current listing of some of the resources excluded by Ffederal statute: (Continued)

(12) Payments of relocation assistance to members of the Navajo and Hopi Tribes. (P.L. #93-531)

Authority: Welfare and Institutions Code Sections 10553 and 18904.

Reference: Welfare and Institutions Code Section 18902; 7 CFR 273.8(e)(11)(x).

Repeal Section 63-501.521(d) and renumber Subsections (e), (f), and (g) to (d), (e), and (f), respectively, to read:

63-501 RESOURCE DETERMINATIONS (Continued)

63-501

.5 Resource Values (Continued)

.52 (Continued)

.521 (Continued)

~~(d)~~ Necessary for subsistence hunting or fishing;

(ed) Used as the household's home and, therefore, excluded under Section 63-501.3(a).

(fe) Necessary to transport a physically disabled household member, including an excluded disabled household member whose resources are being considered available to the household as specified in Section 63-503.44, regardless of the purpose of such transportation. There shall be a limit of one vehicle per physically disabled household member. The vehicle need not have special equipment or be used primarily by or for the transportation of the physically disabled household member. However, a vehicle shall be considered necessary for the transportation of a physically disabled household member if the vehicle is specially equipped to meet the specific needs of the disabled person or if the vehicle is a special type of vehicle that makes it possible to transport the disabled person.

(gf) The exclusions in (a) through (ed) of this section will apply when the vehicle is not in use because of temporary unemployment, such as when a taxi driver is ill and cannot work, or when a fishing boat is frozen in and cannot be used.



Authority: Welfare and Institutions Code Sections 10553 and  
18904.

Reference: Welfare and Institutions Code Section 18902 and 7  
CFR 273.8(h)(1)(iv).

Amend Section 63-502.2j to add (12) to read:

63-502 INCOME, EXCLUSIONS AND DEDUCTIONS (Continued) 63-502

•2 Income Exclusions (Continued)

j. (Continued)

(12) Payments of relocation assistance to members of  
the Navajo and Hopi Tribes. (P.L. #93-531)

Authority: Welfare and Institutions Code Sections 10553 and  
18904.

Reference: Welfare and Institutions Code Section 18902 and 7  
CFR 273.9(c)(10)(x).

Amend Section 63-502.353 to read:

63-502 INCOME, EXCLUSIONS AND DEDUCTIONS (Continued) 63-502

.3 Income Deductions (Continued)

.35 Shelter Costs. (Continued)

.353 The cost of heating and cooking fuel; cooling and electricity; ~~energy assistance payments as specified in Sections 63-501.3(k)(7) and 63-502.2(j)(7);~~ water and sewerage; garbage and trash collection fees; the basic service fee for one telephone, including tax on the basic fee; and fees charged by the utility provider for initial installation of the utility. One-time deposits shall not be included as shelter costs.

Authority: Welfare and Institutions Code Sections 10553 and 18904.

Reference: Welfare and Institutions Code Section 18902 and 7 CFR 273.9(d)(6)(ii).

Amend Sections 63-502.361 and .363 to read:

63-502 INCOME, EXCLUSIONS AND DEDUCTIONS (Continued) 63-502

.3 Income Deductions (Continued)

.36 Standard Utility Allowance

.361 The standard utility allowance (SUA) may be used in calculating shelter costs of those households which incur heating or cooling costs separate and apart from their rent or mortgage payments, including residents of rental housing who are billed on a monthly basis by their landlords for actual usage as determined through individual metering. Households which do not incur any separate utility charges, or which are billed separately for only telephone costs, water, sewerage and garbage collection fees shall not be entitled to claim the standard utility allowance.

(a) The SUA shall also be made available to households receiving energy assistance vendor payments but who continue to incur out-of-pocket heating or cooling expenses during any month covered by the certification period. To determine if a household incurs an out-of-pocket heating or cooling expense in addition to the energy assistance vendor payments, the CWD shall prorate the energy assistance vendor payments (such as HEAP payments) over the entire heating or cooling season the payment is intended to cover.

(ab) (Continued)

(bc) (Continued)

(ed) (Continued)

.362 (Continued)

.363 Except as provided in Section 63-502.362, the household shall be advised at initial certification and recertification that it may, instead of using the SUA, deduct its total actual utility costs if the household can verify these costs. The CWD shall also advise the household

that it has the right to switch between actual utility costs and the SUA Households shall not be allowed to switch between the actual utility costs and the SUA for a period of at each recertification and one additional time during each 12-months period. following initial certification and may switch no more frequently than once every 12 months thereafter.

Authority: Welfare and Institutions Code Sections 10553 and 18904.

Reference: Welfare and Institutions Code Section 18902 and 7 CFR 273.9(d)(6)(i), 273.9(d)(6)(ii), 273.10(d)(6), and 273.9(d)(6)(ii) and (vii).

Amend Sections 63-503.24, title only, and .254a to read:

63-503 DETERMINING HOUSEHOLD ELIGIBILITY AND BENEFIT LEVELS (Continued) 63-503

.2 Determining Resources, Income and Deductions (Continued)

.24 Determining the Eligibility and Benefit Level of ~~Migrant Farmworker~~ Households Excluded from Retrospective Budgeting (Continued)

.25 Determining Deductions For All Households (Continued)

.254 Disallowed expenses. (Continued)

- a. ~~An expense covered by an excluded reimbursement or vendor payment shall not be deductible except for energy assistance vendor payments. For example, the portion of rent covered by excluded vendor payments shall not be calculated as part of the household's shelter cost. (Continued)~~

.255 (Continued)

Authority: Welfare and Institutions Code Sections 10553 and 18904.

Reference: Welfare and Institutions Code Section 18902 and 7 CFR 273.9(d)(6)(iii) and 273.21(b)(1) and (2).

Amend Section 63-503.412(a) to read:

63-503 DETERMINING HOUSEHOLD ELIGIBILITY AND BENEFIT LEVELS (Continued) 63-503

.4 Households with Special Circumstances (Continued)

.41 Households with Self-Employment Income (Continued)

.412 Annualizing Self-Employment Income

(a) At the time of application, the income and expenses from a self-employment enterprise as specified in Sections 63-503.411(b) and (c) shall be verified for either the last year or the last period during which income was earned and which was intended to cover either a year or a part of a year. The CWD shall then use this verified information to average the household's income over the next year or period of time the income is intended to cover, unless the household can provide the EWB with information that shows this averaged amount is not reflective of the household's projected income situation. The EWB shall then adjust the average based on the information provided by the household.

(1) If the household has experienced a substantial increase or decrease in business income and can provide the CWD with information that shows the averaged amount is not reflective of the household's actual circumstances, the CWD shall then calculate the household's self-employment income based on anticipated earnings rather than prior income.

Authority: Welfare and Institutions Code Sections 10553 and 18904.

Reference: Welfare and Institutions Code Sections 18901 and 18902; 7 CFR 273.11(a)(1)(i).



Amend Sections 63-503.491(a), .492, and .493 to read:

63-503 DETERMINING HOUSEHOLD ELIGIBILITY AND BENEFIT LEVELS (Continued) 63-503

.4 Households with Special Circumstances (Continued)

.49 Households with Sponsored Aliens (Continued)

.491 The following aliens are exempt from provisions for sponsored aliens:

- (a) An alien who is participating in the Food Stamp Program as a member of his ~~or~~ her sponsor's household or an alien whose sponsor is participating separate and apart from the alien; (Continued)

.492 Eligibility and Benefit Level

(a) Income

- (1) Unearned income of the household containing sponsored aliens shall include the following: The amount of the monthly income of an alien's sponsor and the sponsor's spouse (if living with the sponsor) that has been deemed available to the alien, unless the sponsored alien is otherwise exempt from this provision in accordance with Section 63-503.491.

- (2) Unearned income deemed available to the alien is determined as follows:

- (A) Take the total monthly gross income of the sponsor and the sponsor's spouse (if living with the sponsor).

- (i) Deduct the earned income deduction from that portion of income determined as earned income of the sponsor and the sponsor's spouse, and

(ii) Deduct the food stamp monthly gross income eligibility limit for a household equal in size to the sponsor's household, i.e. the sponsor, the sponsor's spouse and any other person who is claimed or could be claimed by the sponsor, or the sponsor's spouse as a dependent for federal income tax purposes.

(8) If the alien has already reported gross income information on his/her sponsor, due to Aid to Families with Dependent Children's (AFDC) sponsored alien rules, that income amount may be used for Food Stamp Program deeming purposes. However, allowable deductions to be applied to the total gross income of the sponsor and the sponsor's spouse, prior to attributing an income amount to the alien, shall be limited to the earned income amount and the Food Stamp Program gross monthly income deduction stated above.

(3) Direct cash payment to the alien by the sponsor or the sponsor's spouse shall not be considered as income to the alien unless the amount paid exceeds the amount of the sponsor's income deemed available to the alien. Only the portion of the amount paid that actually exceeds the deemed amount would be considered income to the alien in addition to the deemed income amount.

(b) Resources

(1) "Resources for households containing sponsored aliens" shall also include.

that portion of the resources of an alien's sponsor and the sponsor's spouse (if living with the sponsor) which has been deemed to be those of the alien, unless the sponsored alien is otherwise exempt from this provision in accordance with Section 63-503.491.

- (2) Resources of the sponsor and sponsor's spouse as determined by Section 63-501 deemed to be that of the alien shall be the total amount of their resources reduced by \$1,500. If the alien has already reported total resource information on his/her sponsor due to AFDC's sponsored alien rules, the resource amount calculated by AFDC as the amount to be attributed to the alien may be used for Food Stamp Program deeming purposes.

(c) Treatment of Income and Resources of More Than One Sponsored Alien

If a sponsored alien can demonstrate to the CWD that his/her sponsor sponsors other aliens, then the income and resources deemed under this section shall be divided by the number of such aliens that apply for, or are participating in the Food Stamp Program.

If such information about other aliens for whom the sponsor is responsible is not provided to the CWD, the deemed income and resource amounts calculated shall be attributed to the applicant alien in their entirety until such time as the information is provided.

(d) Changing Sponsors

If the alien changes sponsors during the certification period, then deemed income/resources shall be recalculated based on the required information of the new sponsor. See Section 63-403.33. The reported change would be handled in

accordance with the time frames and procedures in Sections 63-504.3 and .4 as appropriate.

(e) Loss of a Sponsor

In the event that an alien loses his/her sponsor during the three-year limit on the sponsored alien provisions of this section and does not obtain another, the deemed income and resources of the previous sponsor shall continue to be attributed to the alien until such time as the alien obtains another sponsor or until the three-year period for applying the sponsored alien provisions expires, whichever occurs first. However, should the alien's sponsor die, the deemed income and resources of sponsor shall no longer be attributed to the alien.

.493 Awaiting Verification

- (a) While the CWD is awaiting receipt and/or verification from the alien of information necessary to carry out the provisions of Section 63-503.49, if information necessary is not received or verified on a timely basis, the sponsored alien and his/her spouse shall be ineligible to participate until all necessary facts are obtained. In determining the eligibility and/or benefit level of the remaining household members, the income and resources of the ineligible alien and his/her spouse (excluding the attributed income and resources of the alien's sponsor and sponsor's spouse) shall be handled treated in the same manner as a disqualified member as set forth in accordance with Section 63-503.442. and considered available.
- (b) If the sponsored alien refuses to cooperate in providing and/or verifying needed information, other adult members of the alien's household shall be responsible for providing and/or verifying information required in accordance with Section 63-505.1. If the information or verification is subsequently received, the

CWD shall act on the information as a reported change in household membership in accordance with the timeliness standards in Sections 63-504, 265, 35, 422, and 423 .3 and .4. If the same sponsor is responsible for the entire household, the entire household is ineligible until such time as needed sponsor information is provided and/or verified.

Authority: Welfare and Institutions Code Sections 10553 and 18904.

Reference: Welfare and Institutions Code Section 18902; 7 CFR 273.11(h)(2)(i), (iii), (iv), and (vii); 273.11(h)(3)(i); 273.11(h)(4); and 273.11(h)(6).

Amend Section 63-504.251 to read:

63-504 HOUSEHOLD CERTIFICATION AND CONTINUING  
ELIGIBILITY (Continued)

63-504

•2 Notices of Action (Continued)

•25 Notice of Expiration of Certification (NEC) (DFA 377.2)  
(Continued)

•251 Expiration of the Certification Period

The EWB shall provide ~~e~~Each household whose certification period is due to expire with shall receive a notice of expiration (NEC) to be received at least one day, but not earlier than 30 days, prior to the first day of the household's during the next to last month of certification, except as provided in Sections 63-504.251(a) and (b) and 63-504.252.

Authority: Welfare and Institutions Code Sections 10553 and 18904.

Reference: Welfare and Institutions Code Section 18902 and 7 CFR 273.14(b)(2).

Amend Section 63-504.267 to add Subsections (f) and (g) to read:

63-504 HOUSEHOLD CERTIFICATION AND CONTINUING  
ELIGIBILITY (Continued)

63-504

.2 Notices of Action (Continued) ---

.26 Notice of Change (DFA 377.4) (Continued)

.267 (Continued)

(f) The household voluntarily requests, in writing or in the presence of an EW, that its participation be terminated. If the household does not provide a written request, the CWD shall send the household a letter confirming the voluntary withdrawal. Written confirmation does not entail the same rights as a notice of adverse action except that the household may request a state hearing.

(g) The CWD determines, based on reliable information, that the household will not be residing in the county and, therefore, will be unable to obtain its next allotment.

Authority: Welfare and Institutions Code Sections 10553 and 18904.

Reference: Welfare and Institutions Code Section 18902 and 7 CFR 273.13(b)(12 and 13).

Amend Section 63-504.391(b) to read:

63-504 HOUSEHOLD CERTIFICATION AND CONTINUING  
ELIGIBILITY(Continued)

63-504

.3 Monthly Reporting (Continued)

.39 Mass Changes (Continued)

.391 Federal Adjustments to Eligibility Standards,  
Allotments, Deductions, and State Adjustments to  
the Standard Utility Allowance

- (a) These adjustments shall go into effect for all households at a specific point in time. Adjustments to the thrifty food plan, the standard deduction, shelter and dependent care deductions, and the maximum income eligibility standards shall be effective for all issuances upon the effective dates, as specified in Handbook Section 63-1101.
- (b) A Notice of Adverse Action ~~is~~ shall not required, be provided for these mass changes. ~~However,~~ the CWD shall publicize these mass changes through the news media; posters in certification offices, issuance locations, or other sites frequented by certified households; or general notices mailed to households.
- (c) The CWD shall handle mass changes to General Assistance (GA) payments in the same manner as public assistance adjustments.

Authority: Welfare and Institutions Code Sections 10553 and 18904.

Reference: Welfare and Institutions Code Section 18902 and 7 CFR 273.12(e)(ii).



Repeal Section 63-504.43. amend Sections 63-504.42, .43 (title only), and .47. and renumber .44, .45, .46, and .47 to .43, .44, .45, and .46 to read:

63-504 HOUSEHOLD CERTIFICATION AND CONTINUING ELIGIBILITY (Continued) 63-504

.4 Effecting Changes for Nonmonthly Reporting Households (Continued)

.42 Action on Reported Changes for Prospectively Budgeted Households (Migrant Farmworker Households) (Continued)

.43 Action on Reported Changes for Nonmonthly Reporting Retrospectively Budgeted Households

.431 Reported changes shall be processed in accordance with Section 63-504.35.

.432 If the reported change results in an increase or decrease in benefits to the household, the CWD shall make the change effective the issuance month that corresponds with the budget month in which the change occurred.

.433 If the reported change is the addition of a new household member, the CWD shall make the change in accordance with Section 63-504.35.

.434 Changes reported during the certification period shall be subject to the same verification procedures as specified in Section 63-504.42.

.44 Migrant Farmworker Nonmonthly Reporting Households Receiving PA Benefits

.441 (Continued)

.442 (Continued)

.443 (Continued)

.444 Whenever a change results in the reduction or termination of a household's PA benefits within its food stamp certification period, and the CWD has sufficient information to determine how the change affects the household's food stamp eligibility and benefit level, the CWD shall take

the appropriate action, specified in Sections 63-504.4434(a) and (b). (Continued)

•4435 Whenever a change results in the termination of a household's PA benefits within its food stamp certification period, and the CWD does not have sufficient information to determine how the change affects the household's food stamp eligibility and benefit level, the CWD shall take the appropriate action, as specified in Sections 63-504.4435(a) or (b). (Continued)

•454 Failure to Report (Continued)

•465 Mass Changes (Continued)

•476 Social Security Benefit Cost-of-Living Adjustments (COLAs)

The CWD shall adjust the household's food stamp benefits to reflect the Social Security COLA. Any changes shall be made within 120 days of the effective date of the Social Security benefit payment change. For nonmonthly reporting households subject to retrospective budgeting the changes shall be made no earlier than 60 days from the effective date of the benefit payment change.

Authority: Welfare and Institutions Code Sections 10553 and 18904.

Reference: Welfare and Institutions Code Sections 18901 and 18902; 7 CFR 273.21(b)(1) and (2).

Amend Section 63-504.61 to read:

63-504 HOUSEHOLD CERTIFICATION AND CONTINUING  
ELIGIBILITY (Continued)

63-504

.6 Recertification of All Households

.61 General Requirements

.611 The CWD shall complete the application process and approve or deny a timely application for recertification prior to the end of household's current certification period and shall provide an eligible household with an opportunity to participate by the household's normal issuance cycle in the month following the expiration of the household's certification period. The CWD shall not continue benefits beyond the end of the certification period unless the household has been recertified.

(a) The joint processing requirements in Section 63-301.6 for PA and categorically eligible households shall also apply to applications for recertification.

(b) (Continued)

.612 All households shall be provided a notice of expiration in accordance with Section 63-504.251. The CWD shall provide the household with an application form. The CWD may send the application form with the notice of expiration and include an appointment date for an interview, or the application form and appointment date may be mailed or given to the household separately.

.613 Timely and Untimely Application for Recertification

(a) Monthly reporting households which file a complete monthly report on or before the 11th of the last month of the certification period, and an application no later than the recertification interview shall be considered to have made a timely application for recertification.

- (b) All nonmonthly reporting households, except those specified in Section 63-504.613(c), which file applications by the 15th day of the last month of the certification period shall be considered to have made a timely application for recertification.
- (c) Nonmonthly reporting households provided a notice of expiration at the time of certification, in accordance with Section 63-504.251(b), shall have 15 days from the date the notice is received to file a timely application for recertification.
  - (1) To aid the CWD in determining if adequate time has been permitted, the CWD shall use the date on the notice of expiration, plus two days for mailing time. In cases of dispute, if the household can demonstrate that the notice of expiration was not received in a timely manner and otherwise submits its application within 15 days after receiving the notice of expiration the CWD shall consider the household to have made a timely application for recertification.

.614 Any household receiving a notice of expiration shall attend any interview scheduled by the CWD on or after the date the application is timely filed in order to retain its right to uninterrupted benefits. The CWD may schedule the interview prior to the date the application is timely filed provided the household is not denied at that time for failing to appear for the interview. The CWD shall schedule the interview on or after the date the application was timely filed if the interview has not been previously scheduled, or the household has failed to appear for any interviews scheduled prior to this time and has requested another interview. If the household does not appear for any interview scheduled in accordance with this section, the CWD need not initiate any further action.

.6145 Newly obtained social security numbers shall be verified at recertification in accordance with

verification procedures outlined in Section 63-404.2.

.616 A household which submits a timely application for recertification and meets all other processing steps in a timely manner shall receive uninterrupted benefits.

.617 CWD action on timely applications for recertification

The CWD shall provide uninterrupted benefits to any household determined eligible after the household timely filed an application and attended an interview in accordance with the requirements of Section 63-504.614. The CWD shall provide uninterrupted benefits within the time standards listed below even if, to meet these standards, the CWD must provide an opportunity to participate outside the normal issuance system.

(a) Households that were provided a notice of expiration at the time of certification and that have timely reapplied shall be notified of their eligibility or ineligibility and provided an opportunity to participate, if eligible, not later than 30 days after the date the household had an opportunity to obtain its last allotment.

(b) For all other households that have met all required application procedures, the CWD shall approve or deny the application and notify the household on the DFA 377.1 of its determination by the end of the current certification period. In addition, for households determined eligible, the CWD shall provide an opportunity to participate by the household's normal issuance cycle in the month following the end of its current certification period.

(c) Households which have timely reapplied, but due to CWD error are not determined eligible in sufficient time to provide for issuance in the household's normal issuance cycle for the following month, shall receive an immediate opportunity to participate upon being redetermined eligible.

.618 Failure to Submit a Timely Reapplication

(d) Households which file an application for recertification after the appropriate date specified in Sections 63-504.613(a), (b), or (c), but by the end of the certification period, shall be considered to have made an untimely application for recertification.

Any household shall lose its right to uninterrupted benefits if it fails to submit a timely application for recertification; or if it fails to appear for an interview as specified in Section 63-504.613(a) and 63-504.614. However, the household shall not be denied at that time, unless it refused to cooperate, or the certification period has lapsed and the CWO chooses to make denials at that time in accordance with Section 63-504.618(b) below. If the household is otherwise eligible after correcting such failures, the CWO shall, at a minimum, provide benefits no later than 30 days after the date the application was filed.

(a) For applications received in the month following the expiration of the certification period, benefits shall be prorated as specified in Section 63-503.13. However, households which receive a notice of expiration at the time of certification and which are otherwise eligible shall not have benefits for the first month of the new certification period prorated if they file their applications for recertification by the filing deadline in the notice of expiration.

(b) Denials for untimely applications for recertification including those for failure to complete the interview timely, shall be completed either by the end of the current certification period or within 30 days after the date the application was filed as long as the household has had adequate time for providing the missing verification.

(c) Any application not submitted in a timely manner shall be treated as an application for initial certification. For nonmonthly reporting households who submit

applications within 30 days after the certification period expires, previously verified income or actual utility expenses need not be verified if the source has not changed and the amount has not changed by more than \$25.

.619 CWD Failure to Act

CWD failure to provide eligible households which filed a timely application for recertification and met all processing steps in a timely manner with an opportunity to participate in accordance with Section 63-504.618, shall be considered an administrative error. These households shall be entitled to restoration of lost benefits if, as a result of such error, the household was unable to participate for the month following the expiration of the certification period.

Authority: Welfare and Institutions Code Sections 10553 and 18904.

Reference: Welfare and Institutions Code Sections 10554, 18901, and 18902; 7 CFR 273.14(a)(2), (a)(3), and (a)(4), 273.14(b)(3), 273.14(c)(2), 273.14(d), 273.14(e), and 273.14(f)(1) and (f)(2).

Amend Section 63-504.62 to read:

63-504 HOUSEHOLD CERTIFICATION AND CONTINUING  
ELIGIBILITY (Continued)

63-504

.6 Recertification of All Households

.62 Process for Recertifying and Action on Timely  
Reapplications for Monthly Reporting Households

.621 The EWB shall mail the application form (BFA 285-A2) to the household along with the notice of expiration. The CA 7 shall be mailed to the household in accordance with its normal mailing time or along with the NEC in accordance with Section 63-504.251. Return of both the CA 7 and the application form is required to complete the recertification.

(a) The CA 7 shall be submitted to the CWD in accordance with the dates specified in Section 63-504.3. To complete the recertification, the CA 7 shall be completed in accordance with Section 63-504.32.

(b) The application form shall be submitted to the CWD no later than the time of the interview.

.622 The EWB shall conduct a complete interview with a household member or authorized representative

(a) Households receiving a notice of expiration shall not be required to appear for an interview before the last month of their current certification period. However, after the household has been provided a notice of expiration, the EWB may schedule an interview in the month prior to the last month of the certification period or prior to the date the CA 7 and application are filed, provided the household is made aware they will not be denied for failing to appear for the interview.

(b) The EWB shall schedule an interview any time during the last month of the certification period on or after the date



the CA 7 is received if the interview has not been previously conducted or the household has failed or refused to appear for any previously scheduled interviews.

(tc) If the household has not previously filed a complete CA 7, the household may submit it at the interview. In no event shall the reapplication be considered timely if a complete CA 7 is submitted after the 11th of the last month of the certification period.

(te) A household which fails without good cause to appear for an interview scheduled after the CA 7 is timely filed shall lose its right to uninterrupted benefits, but shall not be denied at that point, unless it has refused to cooperate.

.6232 For those households that have timely reapplied, the EWB shall approve or deny the application and notify the household on the RFA 377-t of its determination by the end of the current certification period. In addition, for households determined eligible, the EWB shall provide an opportunity to participate by the household's normal issuance date in the month following receipt of the timely reapplication even if the EWB must provide an opportunity to participate outside of the normal issuance system. Households which have timely reapplied, but due to the EWB error are not determined eligible in sufficient time to provide for issuance on the household's normal issuance date for the following month, shall receive an immediate opportunity to participate upon being determined eligible, even if the EWB must provide an opportunity to participate outside of the normal issuance system.

(ta) The CWD shall: 1) recertify the household using information on the CA 7 for the corresponding budget month to determine the household's benefit level for the first month of the new certification period. (tb) The EWB shall 2) delay reflecting information from the recertification interview affecting the household's benefit level until the second month of the new certification period if necessary to continue retrospective budgeting; and (tc) The EWB

shall 3) continue to determine the household's prospective eligibility in accordance with Section 63-503.231.

.6243 PA and categorically eligible households that are jointly processed in accordance with Section 63-301.6 shall, to the extent possible, be recertified for food stamps at the same time that their PA eligibility is redetermined. (See Section 63-504.611 for categorically eligible households.) They may be recertified in the month prior to the last month of the certification period in conjunction with the PA redetermination, except that, if the recertification is not completed in that month, it shall be pending and the household shall be provided a notice of expiration in accordance with Section 63-504.251. The recertification shall be completed during the last month of the certification period, as specified in Sections 63-504.621, .622, and .623. When the recertification is completed in the month prior to the last month of the certification period, the new certification period shall begin with the last month of the old certification period.

.6254 Households that receive a notice of expiration shall be subject to the verification requirements specified in Section 63-504.3 for information provided on the CA 7, but shall not be subject to the other CA 7 processing provisions contained in Section 63-504.3 in the last month of the certification period since recertification provisions in Section 63-504.6 are in effect in this month. PA households whose recertifications are completed in the month prior to the last month of the certification period shall be subject to all provisions of Section 63-504.3 in that month, except that they shall be provided a DFA 377.1, instead of a DFA 377.4. In addition, all changes reported on the application shall be subject to the same verification procedures as apply at initial certification, including categorically eligible households, as specified in Sections 63-301.71 and .72.

Authority: Welfare and Institutions Code Sections 10553 and 18904.

Reference: Welfare and Institutions Code Sections 18901 and 18902; and 7 CFR 273.14(c)(2).

Amend and renumber Sections 63-504.63 and .64 to read:

63-504 HOUSEHOLD CERTIFICATION AND CONTINUING ELIGIBILITY (Continued) 63-504

.6 Recertification of All Households

.63 Process for Recertifying Nonmonthly Reporting Households and Action on Timely Reapplications

- ¶631 The GWA shall provide the household with an application form. The GWA may send the application form with the notice of expiration and include an appointment date for an interview, or the application form and appointment date may be mailed separately.
- ¶632 The GWA shall not require households receiving notices of expiration to appear for an interview before the last month of their current certification period. However, after the household has been provided a notice of expiration, the GWA may schedule an interview in the month prior to the last month of the certification period and prior to the date the application is timely filed, provided the household is not denied for failing or refusing to appear for the interview. The GWA shall schedule an interview on or after the date the application was timely filed if an interview has not been previously scheduled or the household has failed or refused to appear for any interviews scheduled prior to the date the application was timely filed. A household which fails without good cause to appear for an interview scheduled after the application is timely filed shall lose its right to uninterrupted benefits, but shall not be denied at that point unless it has refused to cooperate.
- ¶633 The GWA shall take action on timely reapplications within the time standards listed below. Households which have timely reapplied, but due to GWA error are not determined eligible in sufficient time to provide for issuance on the household's normal issuance date for the following month, shall receive an immediate opportunity to participate upon being determined eligible, even if the GWA must provide an opportunity outside the normal issuance system.

- (a) Households that were provided a notice of expiration at the time of certification and that have timely reapplied shall be notified of their eligibility or ineligibility and provided an opportunity to participate if eligible not later than 30 days after the date the household had an opportunity to obtain its last allotment.
- (b) For those households that have filed an application by the 15th of the last month of their certification period, the CWD shall approve or deny the application and notify the household on the DFA 377-1 of its determination by the end of the current certification period. In addition, for households determined eligible, the CWD shall provide an opportunity to participate by the household's normal issuance cycle in the month following receipt of the timely reapplication. Households which have timely reapplied, but due to CWD error are not determined eligible in sufficient time to provide for issuance in the household's normal issuance cycle for the following month, shall receive an immediate opportunity to participate upon being redetermined eligible.
- (c) For households subject to retrospective budgeting, the CWD shall reflect information from the recertification interview as specified in Section 63-584.623(b) and (c).

.634<sup>1</sup> The following verification requirements shall apply at recertification:

- (a) The CWD shall verify a change in income, medical expenses, or actual utility expenses claimed by a household if the source has changed or the amount has changed by more than \$25 since the last time they were verified.
- (b) Unchanged information, or changes of \$25 or less in income, medical expenses or utility expenses shall not be verified at recertification, unless the information is questionable.

for Newly obtained social security numbers shall be verified at recertification in accordance with verification procedures outlined in Section 63-404.2.

#### \*64 Additional General Requirements

##### \*641 EWA Failure to Act

EWA failure to provide eligible households which filed a timely application for recertification with an opportunity to participate in accordance with Sections 63-504.623 and \*633 shall be considered an administrative error. These households shall be entitled to restoration of lost benefits if as a result of such error the household was unable to participate for the month following the expiration of the certification period.

##### \*642 Failure to Submit a Timely Reapplication

Any household which fails without good cause to submit a timely application for recertification or to appear for an interview scheduled after the household timely filed its monthly report and/or application for recertification shall lose its right to uninterrupted benefits. Households which refuse to cooperate in providing required information shall be denied. Any untimely application for recertification shall be treated as an application for initial certification except that the verification requirements specified in Sections 63-504.625 or \*634 shall apply. For applications received in the month following the expiration of the certification period benefits shall be prorated as specified in Section 63-503.13.

##### \*643 Good Cause for Failure to Timely Reapply

If the EWA determines that any household's failure to make timely application or to otherwise complete the certification process in a timely manner was for good cause the household shall be entitled to restoration of lost benefits if as a result of its failure the household was unable to participate in the month following the expiration of its certification period. The determination of good cause shall be made on a case-by-case basis.

and shall include, but not be limited to, failure to receive timely notice of expiration of personal illness.

Authority: Welfare and Institutions Code Sections 10553 and 18904.

Reference: Welfare and Institutions Code Sections 10554 and 18902; 7 CFR 273.14(c)(2) and 273.21(b)(1) and (2).

Amend Section 63-505.1 to read:

63-505 HOUSEHOLD RESPONSIBILITIES

63-505

.1 Household Cooperation

To determine eligibility, the application form must be completed and signed, the household or its authorized representative must be interviewed, and certain information on the application must be verified. In counties where photo ID cards are mandated it is a condition of participation that a household member or its authorized representative obtain a photo identification card unless exempt under Section 63-504.987. If a designated authorized representative does not comply, the household may designate a household member or another authorized representative to be photographed. If the household refuses to cooperate with the CWD in completing this process, the application shall be denied at the time of refusal. For a determination that household refusal has occurred, the household must have been able to cooperate, and clearly demonstrated that it chose not to take such actions as are required to complete the application process. If there is any question as to whether the household has merely failed to cooperate, as opposed to refused to cooperate, the household shall not be denied. Refusal to disclose a Social Security number is an exception to the denial of the entire household. When an individual is required to give his/her Social Security number and has refused to comply, the eligibility of the other household members will not be affected (see Section 63-404). The household shall also be determined ineligible if it refuses to cooperate in any subsequent review of its eligibility, including reviews generated by reported changes, recertifications, or as part of a quality control review. Once denied or terminated for refusal to cooperate, the household may reapply but shall not be determined eligible until it cooperates, or the household reapplies at least 95 days after the end of the annual review period in which the refusal to cooperate with a QC reviewer occurred. Households applying after 95 days from the end of the annual review period in which the household refused to cooperate with a QC reviewer, shall provide verification of all eligibility requirements, including items that would normally only be verified if questionable, as specified in Section 63-300.53.



Authority: Welfare and Institutions Code Sections 10553 and  
18904.

Reference: Welfare and Institutions Code Sections 18901 and  
18902.

Amend Section 63-505.2 to read:

63-505 HOUSEHOLD RESPONSIBILITIES (Continued)

63-505

.2 Monthly Reporting/Retrospective Budgeting Households

All households participating in the Food Stamp Program except as provided in Section 63-505.22, shall report household circumstances on the CA 7 as a condition of eligibility. Households shall not be required to submit any reports of changes other than the CA 7.

.21 ~~Exclusion~~ The following households shall be excluded from retrospective budgeting

.211 Migrant farmworker households, as defined in Section 63-102~~fff~~(m), ~~shall be excluded from retrospective budgeting.~~

.212 Households in which all adult members are elderly or disabled, as defined in Section 63-102(e), and have no earned income.

.22 ~~Exclusion~~ The following households shall be excluded from monthly reporting (See Section 63-504.43 for those households receiving PA)

.221 Migrant farmworker households ~~shall be excluded from monthly reporting while they are excluded from retrospective budgeting.~~

.222 Households without earned income whose adult members are all elderly or disabled shall be excluded from monthly reporting ~~unless these households file monthly reports as a public assistance recipient for the Food Stamp Program.~~

Authority: Welfare and Institutions Code Sections 10553 and 18904.

Reference: Welfare and Institutions Code Sections 18901 and 18902; 7 CFR 273.21(b)(1) and (2).



Amend Section 63-601.1 to read:

63-601 COUNTY WELFARE DEPARTMENT RESPONSIBILITIES

63-601

.1 Basic Issuance Requirements

Each CWD is responsible for the timely and accurate issuance of coupons benefits to eligible certified households in accordance with these regulations. ~~These~~ Households comprised of elderly or disabled members ~~which~~ who state they have difficulty reaching an issuance office to obtain their ~~regular monthly~~ coupon allotments, and households which do not reside in a permanent dwelling or at a fixed mailing address, shall be given assistance in obtaining their ~~coupons~~ benefits. CWDs shall assist these households by arranging for the mail issuance of coupons or direct delivery of benefits to them; by assisting ~~them~~ the households in finding authorized representatives who can act on their behalf; or by using other appropriate means to assure delivery of benefits. The CWD shall establish an issuance and accountability system which will ensure that:

.11 Only certified households receive benefits;

.12 All certified households have access to their benefits;

.13 ~~Program~~ benefits are timely distributed in the correct amounts;

.124 Coupons are accepted, and stored and protected with due security after their delivery to receiving points within the county and;

.145 Coupon issuance and reconciliation activities are properly conducted and accurately reported to FNS.

Authority: Welfare and Institutions Code Sections 10553 and 18904.

Reference: Welfare and Institutions Code Section 18902 and 7 CFR 274.1(a).

Amend Section 63-801.431 to read:

63-801 -CLAIMS AGAINST HOUSEHOLDS (Continued)

63-801

.4 Collecting Claims Against Households and Sponsors of Alien Households (Continued)

.43 Initiating Collection on Claims

- .431 CWDs shall initiate collection action by providing the household or the sponsor of an alien household with a Repayment Notice (DFA 377.7B) which informs the household or its sponsor of the amount owed, the reason for the claim, the period of time the claim covers, any offsetting that was done to reduce the claim, how the household or its sponsor may pay the claim, and the household's or the sponsor's right to a state hearing if the household or the sponsor disagrees with the amount of the claim. Additionally, the notice shall state that if the household has already had a state hearing on the amount of the claim as a result of a consolidation of the administrative disqualification hearing with the state hearing, the household has no right to another state hearing on the amount of the claim. If there is an individual or organization available that provides free legal representation, the DFA 377.7B shall also advise the household of the availability of the services.

Authority: Welfare and Institutions Code Sections 10553 and 18904.

Reference: Welfare and Institutions Code Section 18902 and 7 CFR 273.11(h)(8)(iii)(A).

Amend Section 63-804.1 to read:

63-804 STATE HEARINGS (Continued)

63-804

- .1 Availability of hearings. Households aggrieved by actions of the CWD which affect the participation of the household in the Program shall be entitled to file for a state hearing if the action is subject to a state hearing. Further, a sponsor of an alien household is entitled to a state hearing either to contest a determination that the sponsor was at fault where it was determined that incorrect information has been provided or to contest the amount of the claim. State hearings shall be conducted in accordance with the provisions of Division 22.

Authority: Welfare and Institutions Code Sections 10553 and 18904.

Reference: Welfare and Institutions Code Section 18902 and 7 CFR 273.11(h)(8)(iii)(A).

FACE SHEET

870325-56  
(See Instructions on Reverse)

SUBMITTED FOR REVIEW

MAR 25 1987

OFFICE OF ADMINISTRATIVE LAW

ENDORSED  
APPROVED FOR FILING

APR 06 1987

Office of Administrative Law

For use of Office of Adm Law

FOR FILING ADMINISTRATIVE REGULATIONS  
WITH THE OFFICE OF ADMINISTRATIVE LAW

CERTIFICATION: I hereby certify that the attached are true and correct copies of regulations adopted, amended or repealed by this agency and that the information specified on this Face Sheet is true and correct.

DEPARTMENT OF SOCIAL SERVICES

(AGENCY)

*John S. Maheshwari*  
AGENCY OFFICER WITH RULEMAKING AUTHORITY

Date: 3/23/87

RDB #0187-05

FILED

In the office of the Secretary of State  
of the State of California

APR 06 1987  
At 4:36 o'clock P. M.  
MARCH FONG EU, Secretary of State  
By *Robert Bates*  
Deputy Secretary of State

For use by Secretary of State only

1. AGENCY CONTACT PERSON FOR THIS FILING (See instructions) TITLE TELEPHONE

Rosalie Clark, Chief, Regulations Development Bureau (916) 445-0313

2. Type of filing, (check one) ☐ 30-day Review ☒ Emergency ☐ Certificate of Compliance (Complete Part 4 below)
- ☐ Regulatory changes resulting from Govt. Code 11349.7 review (Complete Part 6 below)
- ☐ Nonsubstantive changes with nonregulatory effect ☐ Printing Error Correction

3. a. Specify California Administrative Code title and sections as follows:

Title MPP

SECTIONS ADOPTED:

SECTIONS AMENDED:

SECTIONS REPEALED:

42-784.1

APPROVED

- b. The following sections listed in 3a contain modifications to the text originally made available to the public:

4. CERTIFICATE OF COMPLIANCE (Government Code Section 11346.1(e): The above-named agency officer certifies that this agency complied with the provisions of Government Code Sections 11346.4-11346.8. (Check one)

- ☐ prior to the emergency adoption
- ☐ within 120 days of the effective date of the emergency adoption of the above-referenced regulations.

5. Is this filing a resubmittal of a previously disapproved or withdrawn regulation?

☒ No ☐ Yes, if yes, give date(s) of prior submittal(s) to OAL:

6. Is the filing submitted to carry out amendments or repeals identified in the statement of review completion submitted as a result of the agency's review of regulations administered by it as of June 30, 1980?

☒ No ☐ Yes, if yes, give date statement was submitted to OAL

7. If these regulations required prior review and approval or concurrence by any of the following agencies, check appropriate box(es)

- ☐ Fair Political Practices Commission (Include FPPC approval stamp) ☐ Building Standards Commission (Attach approval)
- ☐ State Fire Marshall (Attach approval) ☐ Department of Finance (Attach properly signed Std. 399)
- ☐ Other

(SPECIFY AGENCY)

8. a. PUBLICATION DATE OF NOTICE IN CALIFORNIA ADMINISTRATIVE NOTICE REGISTER b. DATE OF FINAL AGENCY ACTION c. DATES OF AVAILABILITY OF MODIFIED REGULATION(S) (GOVT. CODE SEC. 11346.8(c))
- March 23, 1987

9. Effective date of regulatory changes: (See Government Code Section 11346.2 and instructions on reverse)

- a. ☐ Effective 30th day after filing with the Secretary of State.
- b. ☒ Effective upon filing with the Secretary of State.
- c. ☐ Effective on \_\_\_\_\_ as required or allowed by the following statute(s): \_\_\_\_\_
- d. ☐ Effective on \_\_\_\_\_ (Designate effective date *earlier than* 30 days after filing with the Secretary of State pursuant to Govt. Code Sect. 11346.2(d).)  
Attach request demonstrating good cause for early effective date. Request subject to OAL approval.
- e. ☐ Effective on \_\_\_\_\_ (Designate effective date *later than* the normal effective date for the type of order filed.)

## INSTRUCTIONS FOR STD 400

Completed Face Sheet for Filing Regulations with the Office of Administrative Law must be attached to the front of each of the seven copies of the regulations. Note that at least one Face Sheet must contain an original signature of the agency officer with rulemaking authority.

- Part 1. Provide the name and telephone number of the person who is authorized during the review period to answer questions regarding this regulatory filing. If different than person designated in certification box, attach order delegating authority for making decisions regarding these regulations.
- Part 2. Check the appropriate box. NOTE: Nonsubstantive changes are reviewed by and are subject to OAL approval.
- Part 3 a. Provide the Administrative Code Title in which the regulation will appear and list *section* number of each regulation to be amended, adopted or repealed. *When filing a Certificate of Compliance list the section number of each emergency regulation formally adopted after completion of the rulemaking procedures of the APA.* (Attach additional sheets if necessary.)
- b. Please list the section number of each regulation which includes modifications to the text to the regulations originally made available to the public pursuant to Government Code Section 11346.5(b), and adopted, amended or repealed as modified pursuant to Government Code Section 11346.8(c). The sections listed here must correspond to the sections which were made available for 15 days pursuant to Government Code Section 11346.8(c).
- Part 4. Check appropriate box as necessary to comply with the requirements of Government Code Section 11346.1(e).
- Part 5. Specify date(s) and file number(s) of each prior submittal of these regulatory changes which was withdrawn or disapproved.
- Part 6. OAL has a longer time period to review regulatory changes submitted to carry out amendments and repeals which are identified in the agency's Statement of Review Completion and which have been submitted as a result of the agency's review of regulations administered by it as of June 30, 1980. Therefore, these regulatory changes should be submitted in a separate filing from any other regulatory changes. If not submitted separately, regulations not resulting from the review and any material in the rulemaking file relating to them must be clearly identified.
- Part 7. Certain regulatory activities must be reviewed and approved by other state agencies prior to submittal to OAL. Regulations subject to prior approval include:
- Fire and panic safety regulations (Govt. Code Sec. 11342.3.).
  - Building standards as defined in Section 18909 of the Health and Safety Code (Govt. Code Sec. 11343).
  - Conflict of Interest regulations (Title 2 California Admin. Code Section 18750(i)).
- Note: Where regulations have a fiscal impact on state, local or federal government or result in reimbursable costs to local government or school districts the fiscal impact statement must be reviewed, approved and signed by the Department of Finance before the regulations will be accepted for filing by OAL. See Government Code Sections 11349.1, 11346.5(a)(6), and S.A.M. sections 6050-6057.
- Part 8 a. Provide the publication date of the Notice Register in which the notice of proposed action appeared.
- b. Provide the date on which the regulatory agency adopted the regulatory changes.
- c. If the regulations were modified subsequent to the hearing or written comment period, provide the dates during which the modified regulations were made available to the public. Note that period must be at least 15 days and must be completed prior to the date the agency adopts the modified text. All modifications must be clearly indicated.
- Part 9. Effective Dates — check one of the following:
- A regulation or order of repeal is effective 30 days after filing with the Secretary of State unless a different date is specified below.
  - An emergency order, Certificates of Compliance or nonsubstantive change is effective upon filing with the Secretary of State unless a later date is specified below.
  - If an effective date other than specified above is required or allowed by statute, provide the date and the statutory citations(s).
  - If an early effective date is being requested, please attach a letter specifying the date the regulation(s) should take effect and the reason for the early effective date. Requests are granted by OAL upon a showing of good cause.
  - If an effective date later than specified above is requested, provide the date.

### FILING REQUIREMENTS

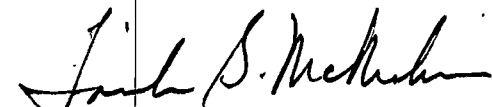
The following material must be submitted when filing regulations with OAL:

- Seven (7) copies of the regulations. Note: Use underline and strikeout to indicate changes in an existing section. For adoption of a new section, underline new text. The repeal of an entire section may be indicated by placing a diagonal slash through the text to be repealed.
- A completed Face Sheet for filing regulations with the Office of Administrative Law, Form STD 400 attached to the front of each copy of the regulations, with at least one Face Sheet bearing an original signature.
- Complete rulemaking file, with index and sworn statement. (See Govt. Code Sec. 11347.3 for full list of rulemaking contents.)



DELEGATED AUTHORITY ORDER

I hereby authorize and designate Rosalie P. Clark, Chief, Regulations Development Bureau as the agency contact person who has authority to make decisions and answer questions regarding this regulation order.

A handwritten signature in cursive script, appearing to read "Linda S. McMahon".

LINDA S. McMAHON  
Director

- Repeal Section 42-784.1 to read:

42-784 METHOD OF DETERMINING NET LOSS OF INCOME  
FOR GAIN, GOOD CAUSE CRITERIA

42-784

- 1 The computation of net loss of income would only be a factor when the participant would lose AFDC eligibility due to income if the job were accepted; that is, the requirements of Section 44-207 would not be met if the job were accepted.

Section 42-784.1 filed January 21, 1986, effective January 23, 1986; repealer filed April 6, 1987 as an emergency effective immediately; a certificate of compliance must be transmitted to OAL within 120 days or emergency language will be repealed on August 4, 1987.

- 2 (Continued)
- 3 (Continued)
- 4 (Continued)
- 5 (Continued)

Authority Cited: Sections 10553, 10554, and 10604(b), Welfare and Institutions Code.

Reference: Sections 10553, 11320.7(a)(13) and (1), Welfare and Institutions Code.

FACE SHEET

RDB #1084-47

OAL File #86-1001-9

SUBMITTED FOR REVIEW

MAR 05 1987

OFFICE OF ADMINISTRATIVE LAW

ENDORSED  
APPROVED FOR FILING

APR 06 1987

For use of Office of Administrative Law

FOR FILING ADMINISTRATIVE REGULATIONS  
WITH THE OFFICE OF ADMINISTRATIVE LAW

CERTIFICATION: I hereby certify that the attached are true and correct copies of regulations adopted, amended or repealed by this agency and that the information specified on this Face Sheet is true and correct.

Department of Social Services

(AGENCY)

*Jack S. McHugh*  
AGENCY OFFICER WITH RULEMAKING AUTHORITY

Date: 3/5/87

**FILED**  
In the office of the Secretary of State  
of the State of California

APR 06 1987  
At 4:36 o'clock P.M.  
MARCH FONG EU, Secretary of State  
By *John Bates*  
Deputy Secretary of State

For use by Secretary of State only

1. AGENCY CONTACT PERSON FOR THIS FILING (See instructions)	TITLE	TELEPHONE
Rosalie Clark	Chief, Regulations Development Bureau	445-0313

2. Type of filing, (check one) ☐ 30-day Review ☐ Emergency ☐ Certificate of Compliance (Complete Part 4 below)
- ☒ Regulatory changes resulting from Govt. Code 11349.7 review (Complete Part 6 below)
- ☐ Nonsubstantive changes with nonregulatory effect ☐ Printing Error Correction

3. a. Specify California Administrative Code title and sections as follows:

Title 22  
Division 12

SECTIONS ADOPTED:

See attached list

SECTIONS AMENDED:

See attached list

SECTIONS REPEALED:

101416.2, 101419, and 101426

- b. The following sections listed in 3a contain modifications to the text originally made available to the public:

See attached list

4. CERTIFICATE OF COMPLIANCE (Government Code Section 11346.1(e): The above-named agency officer certifies that this agency complied with the provisions of Government Code Sections 11346.4-11346.8. (Check one)

- ☐ prior to the emergency adoption
- ☐ within 120 days of the effective date of the emergency adoption of the above-referenced regulations.

5. Is this filing a resubmittal of a previously disapproved or withdrawn regulation?

☐ No ☒ Yes, if yes, give date(s) of prior submittal(s) to OAL: October 3, 1986

6. Is the filing submitted to carry out amendments or repeals identified in the statement of review completion submitted as a result of the agency's review of regulations administered by it as of June 30, 1980?

☐ No ☒ Yes, if yes, give date statement was submitted to OAL October 14, 1982, SORC 10-82-3

7. If these regulations required prior review and approval or concurrence by any of the following agencies, check appropriate box(es)

- ☐ Fair Political Practices Commission (Include FPPC approval stamp) ☐ Building Standards Commission (Attach approval)
- ☐ State Fire Marshall (Attach approval) ☐ Department of Finance (Attach properly signed Std. 399)
- ☐ Other \_\_\_\_\_

(SPECIFY AGENCY)

8. a. PUBLICATION DATE OF NOTICE IN CALIFORNIA ADMINISTRATIVE NOTICE REGISTER	b. DATE OF FINAL AGENCY ACTION	c. DATES OF AVAILABILITY OF MODIFIED REGULATION(S) (GOVT. CODE SEC. 11346.8(c))
October 4, 1985	March 5, 1987	Sept. 2, 1986 thru 5:00 p.m. Sept. 17, 1986 and Jan. 28, 1987 thru 5 p.m. Feb. 11, 1987

9. Effective date of regulatory changes: (See Government Code Section 11346.2 and instructions on reverse)

- a. ☒ Effective 30th day after filing with the Secretary of State.
- b. ☐ Effective upon filing with the Secretary of State.
- c. ☐ Effective on \_\_\_\_\_ as required or allowed by the following statute(s): \_\_\_\_\_
- d. ☐ Effective on \_\_\_\_\_ (Designate effective date earlier than 30 days after filing with the Secretary of State pursuant to Govt. Code Sect. 11346.2(d).)  
Attach request demonstrating good cause for early effective date. Request subject to OAL approval.
- e. ☐ Effective on \_\_\_\_\_ (Designate effective date later than the normal effective date for the type of order filed.)

## INSTRUCTIONS FOR STD 400

Completed Face Sheet for Filing Regulations with the Office of Administrative Law must be attached to the front of each of the seven copies of the regulations. Note that at least one Face Sheet must contain an original signature of the agency officer with rulemaking authority.

- Part 1. Provide the name and telephone number of the person who is authorized during the review period to answer questions regarding this regulatory filing. If different than person designated in certification box, attach order delegating authority for making decisions regarding these regulations.
- Part 2. Check the appropriate box. NOTE: Nonsubstantive changes are reviewed by and are subject to OAL approval.
- Part 3 a. Provide the Administrative Code Title in which the regulation will appear and list *section* number of each regulation to be amended, adopted or repealed. *When filing a Certificate of Compliance list the section number of each emergency regulation formally adopted after completion of the rulemaking procedures of the APA.* (Attach additional sheets if necessary.)
- b. Please list the section number of each regulation which includes modifications to the text to the regulations originally made available to the public pursuant to Government Code Section 11346.5(b), and adopted, amended or repealed as modified pursuant to Government Code Section 11346.8(c). The sections listed here must correspond to the sections which were made available for 15 days pursuant to Government Code Section 11346.8(c).
- Part 4. Check appropriate box as necessary to comply with the requirements of Government Code Section 11346.1(e).
- Part 5. Specify date(s) and file number(s) of each prior submittal of these regulatory changes which was withdrawn or disapproved.
- Part 6. OAL has a longer time period to review regulatory changes submitted to carry out amendments and repeals which are identified in the agency's Statement of Review Completion and which have been submitted as a result of the agency's review of regulations administered by it as of June 30, 1980. Therefore, these regulatory changes should be submitted in a separate filing from any other regulatory changes. If not submitted separately, regulations not resulting from the review and any material in the rulemaking file relating to them must be clearly identified.
- Part 7. Certain regulatory activities must be reviewed and approved by other state agencies prior to submittal to OAL. Regulations subject to prior approval include:
- a. Fire and panic safety regulations (Govt. Code Sec. 11342.3.).
- b. Building standards as defined in Section 18909 of the Health and Safety Code (Govt. Code Sec. 11343).
- c. Conflict of Interest regulations (Title 2 California Admin. Code Section 18750(i)).
- Note: Where regulations have a fiscal impact on state, local or federal government or result in reimbursable costs to local government or school districts the fiscal impact statement must be reviewed, approved and signed by the Department of Finance before the regulations will be accepted for filing by OAL. See Government Code Sections 11349.1, 11346.5(a)(6), and S.A.M. sections 6050-6057.
- Part 8 a. Provide the publication date of the Notice Register in which the notice of proposed action appeared.
- b. Provide the date on which the regulatory agency adopted the regulatory changes.
- c. If the regulations were modified subsequent to the hearing or written comment period, provide the dates during which the modified regulations were made available to the public. Note that period must be at least 15 days and must be completed prior to the date the agency adopts the modified text. All modifications must be clearly indicated.
- Part 9. Effective Dates — check one of the following:
- a. A regulation or order of repeal is effective 30 days after filing with the Secretary of State unless a different date is specified below.
- b. An emergency order, Certificates of Compliance or nonsubstantive change is effective upon filing with the Secretary of State unless a later date is specified below.
- c. If an effective date other than specified above is required or allowed by statute, provide the date and the statutory citations(s).
- d. If an early effective date is being requested, please attach a letter specifying the date the regulation(s) should take effect and the reason for the early effective date. Requests are granted by OAL upon a showing of good cause.
- e. If an effective date later than specified above is requested, provide the date.

### FILING REQUIREMENTS

The following material must be submitted when filing regulations with OAL:

- *Seven (7) copies of the regulations.* Note: Use underline and strikeout to indicate changes in an existing section. For adoption of a new section, underline new text. The repeal of an entire section may be indicated by placing a diagonal slash through the text to be repealed.
- *A completed Face Sheet for filing regulations with the Office of Administrative Law, Form STD 400* attached to the front of each copy of the regulations, with at least one Face Sheet bearing an original signature.
- *Complete rulemaking file, with index and sworn statement.* (See Govt. Code Sec. 11347.3 for full list of rulemaking contents.)

## SECTIONS ADOPTED:

101352	101423.1
101361	101425
101415	101426.2
101415.1	101429
101416.2	101430
101416.3	101439
101416.8	101439.1
101419.2	
101419.3	

## SECTIONS AMENDED:

Subchapter 2 (Title)  
101169 (a)  
101252  
101315 (b)  
101416.5  
101427  
101428  
101438.1  
101438.2  
101438.3

~~SECTIONS MODIFIED SUBSEQUENT TO PUBLIC HEARING:~~

101169	101425
101252	101426
101315	101426.2
101352	101427
101361	101428
101415	101429
101415.1	101430
101416.2	101438.1
101416.3	101438.2
101416.5	101438.3
101416.8	101439
101419	101439.1
101419.2	
101419.3	
101423.1	

~~SECTIONS REPEALED SUBSEQUENT TO PUBLIC HEARING:~~

101382  
101429.1

DELEGATED AUTHORITY ORDER

I hereby authorize and designate Rosalië P. Clark, Chief, Regulations Development Bureau as the agency contact person who has authority to make decisions and answer questions regarding this regulation order.

A handwritten signature in cursive script, appearing to read "Linda S. McMahon".

LINDA S. McMAHON  
Director

(1) Amend Section 101169(a) to read:

101169 APPLICATION FOR LICENSE (Continued)

101169

(a) (Continued)

(1) Applicants for licensure of a combination center shall be permitted to file one application.

Authority Cited: Section 1596.81, Health and Safety Code.

Reference: Sections- 1596.81(b), 1596.856, 1596.95, and 1597.11, Health and Safety Code.

(2) Amend Section 101252 to read:

101252 DEFINITIONS (Continued)

101252

(a) (Continued)

(1) "Combination Center" means a Day Care Center operating in conjunction with an Infant Care Center and/or School-Age Child Day Care Center.

(~~1~~2) (Continued)

(~~2~~3) (Continued)

(~~3~~4) (Continued)

(~~4~~5) (Continued)

(~~5~~6) (Continued)

Authority Cited: Section 1596.81, Health and Safety Code.

Reference: Sections 1596.72, 1596.73, 1596.74, 1596.75, 1596.76, 1596.770, and 1596.81, Health and Safety Code.



(3) Amend Section 101315(b) to read:

101315 DAY CARE CENTER DIRECTORS QUALIFICATIONS AND DUTIES 101315  
(Continued)

(b) (Continued)

(1) Only one director shall be required in a combination center.

Authority Cited: Section 1596.81. Health and Safety Code.

Reference: Sections 1596.72, 1596.73, 1596.81, 1596.87,  
and 1597.05. Health and Safety Code.

(4) Amend Subchapter Title to read:

SURCHAPTER 2. GROUP CARE FOR INFANTS INFANT CARE CENTERS

Authority Cited: Section 1596.81, Health and Safety Code.

Reference: Sections 1596.72, 1596.73, and 1596.76, Health  
and Safety Code.

(5) Adopt new Section 101352 to read:

101352    DEFINITIONS

101352

(a) In addition to Sections 101152 and 101252, the following shall apply.

- (1) "Assistant Infant Care Center Director" (Assistant Director) means the individual as specified in Section 101415.1 designated by the day care center director to act in his or her behalf in the overall management of an infant care center.
- (2) "Combination Center" means an Infant Care Center operating in conjunction with a Day Care Center and/or School-Age Child Day Care Center.
- (3) "Infant Care Center" means any facility or part of a facility where less than 24-hour per day, nonmedical care and supervision are provided to infants in a group setting.
- (4) "Infant Care Center Director" means the administrator of an infant care center as specified in Section 101415.
- (5) "Infant Care Teacher" means a teacher as specified in Section 101416.2.

Authority Cited: Section 1596.81, Health and Safety Code.

Reference: Sections 1596.75, 1596.750 and 1596.76, Health and Safety Code.

FM(5) Adopt new Section 101361 to read:

101361    LIMITATIONS ON CAPACITY AND  
AMBULATORY STATUS

101361

(a) It shall be permissible for a child whose developmental needs  
require continuation in an infant care center to remain in an  
infant care center up to a maximum age of three years.

Authority Cited: Section 1596.81, Health and Safety Code.

Reference: Sections 1596.72 and 1596.81, Health and Safety  
Code.

## Article 6. Continuing Requirements

FM(7) Adopt new Section 101415 to read:

### 101415      INFANT CARE CENTER DIRECTOR QUALIFICATIONS      101415 AND DUTIES

- (a) In addition to Section 101315, the following shall apply.
- (b) The experience requirement specified in Sections 101315(h)(1), (2), and (3), shall be completed in an infant care center or comparable group child care program dealing with children under five years of age.
- (c) At least three (3) of the semester units or equivalent quarter units required in Sections 101315(h)(1)(A), (h)(2) and (h)(3) shall be related to the care of infants.
- (d) The director of a combination center shall successfully complete at least three (3) semester units or equivalent quarter units related to the care of infants within one year of the effective date of these regulations.
- (e) Infant care center directors, employed prior to the effective date of these regulations, who do not have the required semester units or equivalent quarter units related to the care of infants shall successfully complete the required units within one year of the effective date of these regulations.
- (f) When the director of an infant care center or director of a combination center is temporarily away from the center, the director shall have authority to delegate his/her responsibilities as specified below:
  - (1) When an assistant director is required, arrangements shall be made for the assistant director to act as a substitute.
  - (A) Arrangements shall be made for a fully qualified infant care teacher to act as a substitute for the assistant director.
  - (2) When an assistant director is not required, arrangements shall be made for a fully qualified infant care teacher to act as a substitute.

- (3) If the absence is for more than 30 consecutive calendar days, the substitute director shall meet the qualifications of a director.

Authority Cited: Section 1596.91, Health and Safety Code.

Reference: Sections 1596.750, 1596.72 and 1596.91, Health and Safety Code.

FM(8) Adopt new Section 101415.1 to read:

101415.1 ASSISTANT INFANT CARE CENTER DIRECTOR  
QUALIFICATIONS AND DUTIES

101415.1

(a) Assistant infant care center director shall meet the following qualifications:

- (1) Be a fully qualified infant care teacher.
- (2) Have successfully completed at least three post-secondary semester or equivalent quarter units in administration or employee relations at an accredited or approved college or university.
  - (A) The assistant director shall be permitted to complete the above required three units within one year following initial employment as assistant director.
  - (B) The assistant director shall work under the direction and supervision of the infant or day care center director.
  - (C) Under the leadership of the director the assistant director shall be responsible for the infant care center or the infant care component of a combination center.
  - (D) Assistant infant care center directors employed prior to the effective date of these regulations shall successfully complete the three semester units or equivalent quarter units related to the care of infants within one year of the effective date of these regulations.

Authority Cited: Section 1596.81, Health and Safety Code.

Reference: Sections 1596.72 and 1596.81, Health and Safety Code.

(9) Repeal Section 101416.2

101416.2 NURSERY AID QUALIFICATIONS AND DUTIES

101416.2

(a) A nursery aide works under the director and/or assistant director to give continuous attention to the total physical, emotional and intellectual needs of a particular group of infants.

(b) An aide shall:

(1) have graduated from high school or have equivalent education; or

(2) be enrolled in a course leading to graduation from high school; or

(3) demonstrate through previous experience the potential for increasing skills through study, conferences, observations and other means of learning.

(4) Have experience in caring for children either in own home or other person's home or as children's nurse, practical nurse or rearing own children.

Authority Cited: Section 1596.81, Health and Safety Code.

Reference: Sections 1596.72 and 1596.81, Health and Safety Code.



FM(10) Adopt new Section 101416.2 to read:

101416.2 INFANT CARE TEACHER QUALIFICATIONS  
AND DUTIES

101416.2

(a) Notwithstanding Section 101316.2, the following shall apply.

(b) Prior to employment, an infant care teacher shall have successfully completed at least three post-secondary semester units or equivalent quarter units in early childhood education and three post-secondary semester or equivalent quarter units related to the care of infants at an accredited or approved college or university.

(1) After employment, a teacher who has not completed the course work required in (c)(1) below shall successfully complete at least two units each semester or quarter until the education requirements are met.

(c) To be a fully qualified infant care teacher, a teacher shall have the following:

(1) Successful completion of twelve post-secondary semester units, or equivalent quarter units, in early childhood education at an accredited or approved college or university.

(A) At least three (3) of the semester units or equivalent quarter units required in (c)(1) above shall be related to the care of infants or contain instruction specific to infants.

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HANDBOOK

1. Examples of acceptable coursework are pediatric nursing or post-natal care.

(2) At least six months experience in a licensed infant care center or comparable group child care program for children under five years of age.

(A) Experience shall be verified as having been performed satisfactorily, at least three hours per day for a minimum of 50 days in a six-month period, as a paid or volunteer staff member, under the supervision of a person who would qualify as a teacher or director under these regulations.

- (d) A photocopy of each teacher's post-secondary transcript documenting completion of the required coursework shall be maintained on file at the center.
- (e) The infant care teacher, under the direction and supervision of the director and assistant director, shall provide direct care and supervision of infants at the center.
- (f) Teachers shall visually observe aides whenever aides are working with infants.
- (g) Infant care teachers employed prior to the effective date of these regulations shall successfully complete the units required by (b) above within one year of the effective date of these regulations.

Authority Cited: Section 1596.81, Health and Safety Code.

Reference: Sections 1596.72, 1596.73, 1596.81, and 1597.05, Health and Safety Code.

FM(11) Adopt new Section 101416.3 to read:

101416.3 INFANT CARE AIDE QUALIFICATIONS AND DUTIES

101416.3

- (a) In addition to Section 101316.3, the following shall apply.
- (b) An infant care aide shall work under the direct supervision of the director, assistant director or a fully qualified teacher.
- (c) Aides shall participate in the on-the-job training programs provided by the licensee as specified in Section 101216(f).
- (d) An aide shall provide direct care and supervision of infants.

Authority Cited: Section 1596.81, Health and Safety Code.

Reference: Sections 1596.72 and 1596.81, Health and Safety Code.

EW(12) Renumber Section 101416.3 to Section 101416.5 and amend to read:

101416.35 STAFF-CHILD INFANT RATIO

101416.35

(a) If a nursery has more than 25 infants enrolled, there shall be both a director and an assistant director on the staff. In addition to Sections 101316.5. (c). (e). (g) and (h) and notwithstanding Sections 101316.5. (a). (b). (d). and (f). the following shall apply.

(1) No group of children shall be left without adult supervision at any time. There shall be sufficient staff to assure that at least one staff person shall be within sight and sound of each child in the nursery at all times.

(2) There shall be at least one nursery aide for every four infants enrolled in the nursery. The aide shall devote his/her working day to the care of the infants, except at such time as rest periods, attendance at staff meetings, etc., when a regularly assigned substitute shall replace her/him.

(b) In addition to the director, an assistant director shall be present and on duty if the center has 25 or more infants in attendance.

(c) There shall be a ratio of one teacher for every four infants in attendance.

(1) An aide may be substituted for a teacher when all of the following circumstances are met:

(A) There is a fully qualified teacher directly supervising no more than 12 infants, and

(B) Each aide is responsible for the direct care and supervision of a group of no more than four infants.

(2) When engaged in activities away from the center there shall be a minimum of one adult to every two infants in attendance.

HANDBOOK

(A) This ratio may include adult volunteers or parents to supplement the staff-infant ratio.

(d) The director and assistant infant care center director in an infant center or combination center shall be permitted to be counted in the staff-infant ratio when actually working with infants.

(e) There shall be one staff person to visually observe every twelve sleeping infants provided the remaining staff necessary to meet the ratios are immediately available at the center.

(3f) There shall be provision for overlap of staff for different shifts so that continuity of care is assured.

(4) There shall be sufficient auxiliary help for housekeeping duties, cooking, laundering, etc., so that the primary work of the aides can be devoted to child care when children are present.

Authority Cited: Section 1596.81, Health and Safety Code.

Reference: Sections 1596.72, 1596.73, 1596.81, and 1597.05, Health and Safety Code.

FM(13) Adopt new Section 101416.8 to read:

101416.8 STAFFING FOR INFANT WATER ACTIVITIES

101416.8

- (a) In addition to Sections 101316.8(a) and 101416.5(c) and notwithstanding Section 101316.8(b), the following shall apply:
- (b) A ratio of one adult to two infants shall be maintained during activities in or near any body of water, as specified in Sections 101316.8(a)(1) and (3).
- (c) A ratio of one staff to every four infants shall be maintained during activities in or near any container of water, including but not limited to, wading pools, basins, or water trays, that a child can get into and climb out of, unassisted.

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- (1) This ratio may include adult volunteers or parents to supplement the staff-infant ratio.

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Authority Cited: Section 1596.81, Health and Safety Code.

Reference: Sections 1596.72 and 1596.81, Health and Safety Code.

(14) Repeal Section 101419:

101419 ADMISSION POLICIES - - -

101419 - - -

- (a) Every nursery shall establish admission criteria designed to guide in the selection of children who can benefit most from the program and services it has to offer.
- (b) Every nursery shall state its admission criteria in writing and make such written policies available to the public.
- (c) The admission policies established by each nursery shall be determined by the total program including:
  - (1) The hours of operation
  - (2) The size of groups
  - (3) The number and qualifications of staff
  - (4) The program activities
  - (5) The supplementary services provided.
- (d) Although its program will determine the specific admission policies established by each nursery, the admission policies of all nurseries shall include the following:
  - (1) Each child admitted shall be determined to be:
    - (A) Ready for the type of group experience that the nursery has to offer.
    - (B) Able to benefit from the program offered.
  - (2) Children who are physically handicapped or emotionally disturbed shall not be accepted unless it is determined that:
    - (A) There will be no adverse effect upon other children, either through direct behavior of the child or through requiring staff time needed by other children. AND
    - (B) The nursery is able to meet the individual needs of the child.

Authority Cited: Section 1596.81, Health and Safety Code.

Reference: Sections 1596.72, 1596.73, 1596.81, and  
1597.05, Health and Safety Code.



(1<sup>st</sup>) Adopt new Section 101419.2 to read:

101419.2 INFANT NEEDS AND SERVICES PLAN

101419.2

(a) Prior to the infant's first day at the center, the infant care center director or assistant director shall complete a needs and services plan.

(1) Such plan shall be completed with the assistance of the infant's parent at the personal interview specified in Section 101319.1.

(2) The parent's or guardian's participation in the preparation of the plan shall be verified by the parent's or guardian's signature on the plan.

(b) The needs and services plan shall be in writing and shall include the following:

(1) The individual feeding plan.

(2) The individual toilet training plan if applicable.

(3) Any services needed by the child which are different from those provided by the center's normal program. Such items shall include but are not limited to if appropriate to the infant, the following:

(A) Any special exercises for the physically handicapped.

(4) A plan for subsequent personal interviews with the parent or guardian.

(c) Parents/guardians shall be provided with a copy of the Needs and Services Plan and any subsequent updates.

Authority Cited: Section 1596.81, Health and Safety Code.

Reference: Sections 1596.72 and 1596.81, Health and Safety Code.

FM(16) Adopt new Section 101419.3 to read:

101419.3 MODIFICATIONS TO INFANT NEEDS AND SERVICES PLAN 101419.3

(a) The written needs and services plan shall be updated at least quarterly or as frequently as necessary to assure its accuracy.

(1) Updating of the plan shall be completed by the director, assistant director, or a teacher with the assistance of the child's parent or guardian.

(2) The parent's or guardian's participation in the updating of the plan shall be verified by the parent's or guardian's signature on the updated plan.

Authority Cited: Section 1596.81, Health and Safety Code.

Reference: Sections 1596.72 and 1596.81, Health and Safety Code.

(17) Adopt new Section 101423.1 to read:

101423.1 INFANT CARE DISCIPLINE

101423.1

(a) In addition to Section 101323.1, the following shall apply.

(b) Confinement to cribs, high chairs, playpens or other similar furniture or equipment shall not be permitted as a form of discipline or punishment.

Authority Cited: Section 1596.81, Health and Safety Code.

Reference: Sections 1596.72 and 1596.81, Health and Safety Code.

FM(18) Adopt new Section 101425 to read:

101425 INFANT CARE TRANSPORTATION

101425

(a) In addition to Section 101225, the following shall apply.

(b) Only licensed drivers 18 years old or older shall be permitted to operate any vehicle used to transport infants.

(c) Motor vehicles used to transport infants shall contain a first aid kit containing at least the supplies specified in Section 101326(e).

(1) When public transportation is used to transport children, center staff shall have on hand, and available for use, a first aid kit as specified in (c) above.

(d) When transporting infants in any motor vehicle, the licensee shall secure the infants in a car seat designed for infants which is secured in the vehicle in accordance with manufacturers instructions.

(1) The installation instructions shall be maintained in the facility as long as the infant seat is in use.

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(1) Section 27360(c) of the California Vehicle Code provides in part:

(c) It is unlawful for any driver to transport on a highway any child under four years of age or weighing less than 40 pounds in a passenger vehicle or motor truck of less than 6,001 pounds unladen weight which is registered in this state without providing and properly securing the child in either a passenger seat restraint system meeting applicable federal motor vehicle safety standards or available seat belts. This subdivision shall not apply to a driver if the parent or legal guardian of the child is also present in the vehicle and is not the driver.

(e) The staff-child ratio shall be maintained while transporting children in motor vehicles.

(1) The required supervision ratios shall be maintained whether the vehicle is moving or parked.

(f) Children in motor vehicles shall have constant adult supervision and shall not be left unattended under any circumstances.

(1) Children shall not be left in parked vehicles.

Authority Cited: Section 1596.81, Health and Safety Code.

Reference: Sections 1596.72 and 1596.81, Health and Safety Code.

(19) Repeal Section 101426:

101426 Health-Related Services

101426

(a) Every nursery caring for infants shall have provision for continuing medical consultation from a licensed physician. Such medical consultation shall include the following:

- (1) Development of plans for continuing surveillance of communicable diseases.
- (2) Development of plans for daily health surveillance including plans for the care of the sick children.
- (3) Development of procedures for recordkeeping and reporting of accidents and illnesses.
- (4) Standing orders for allowed treatment for nonlife-endangering illnesses.
- (5) Plans for procedures for emergency health care including posting of necessary telephone numbers.
- (6) Plan for storage of medications.
- (7) Determination of the adequacy of emergency first aid procedures including the availability of trained staff.
- (8) Plan for the provision for the continuing health care of those children who are under the care of a personal physician.

Authority Cited: Section 1596.81, Health and Safety Code.

Reference: Sections 1596.72, 1596.73, 1596.81, and 1597.95, Health and Safety Code.

(20) Adopt new Section 101426.2 to read:

101426.2 INFANT CARE ISOLATION FOR ILLNESS

101426.2

- (a) In addition to Section 101326.2 the following shall apply:
- (b) The isolation area shall be equipped with a crib, cot, mat or playpen for each ill child.
- (c) Any infant in the isolation area shall be under constant visual observation by a director, assistant director, teacher or aide.

Authority Cited: Section 1596.81, Health and Safety Code.

Reference: Sections 1596.72 and 1596.81, Health and Safety Code.

FM(21) Amend Section 101427 to read:

101427 INFANT CARE FOOD SERVICE

101427

(a) The feeding of the children shall be planned by a nutritionist, pediatrician, or public health nurse with the introduction of new foods into individual diets so as to insure proper nourishment and physical development of the infants. In addition to Sections 101227 and 101327 the following shall apply.

(b) There shall be an individual feeding plan for each infant.

(1) The plan shall be completed and available for use prior to the infant's first day at the center.

(2) The plan shall be developed by the director or assistant director and the infant's parent(s) and/or physician.

(A) The parent's participation in development and update of the plan shall be verified by his/her signature on the plan.

(3) The plan shall include the following items:

(A) Instructions from the child's physician relating to special diet or feeding.

(B) Feeding schedule.

(C) Breast milk or kind of formula.

(D) Schedule for introduction of solid and new foods.

(E) Food consistency.

(F) Food likes and dislikes.

(G) Food allergies.

(H) Schedule for introduction of cups and utensils.

(4) The plan shall be updated as frequently as requested by the parent or as necessary to reflect changes in any of the areas specified above.



- (5) The infant care center director or assistant infant care center director shall discuss current feeding theory with the parents.

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- (A) Such discussion should include a discussion of the dangers of honey. Authorities recommend that honey not be fed to any child for the first year of life as honey may carry botulism spores that can be harmful to young infants and has been known to be the cause of infant botulism.
- (B) It is recommended that the discussion include the following "Recommendations for Infant Feeding Practices" by the Department of Human Services concerning the sequence for the introduction of solid foods to infants from birth to 12 months.

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<u>AGE</u>	<u>FOODS</u>
Birth-12 months	Breast milk, iron-fortified formula, or evaporated milk formula
At 4-6 months	Infant cereal (dry type)
At 5-7 months	Vegetables, fruits and their juices
At 6-8 months	Protein foods (cheese, yogurt; cooked beans, meat, fish, and chicken; egg yolk)
At 10-12 months	Whole egg

(c) There shall be frequent communication with the child's mother about feeding, such as introduction of new foods, likes and dislikes, and introduction of cups.

(c) The infant shall be fed in accordance with the individual plan.

(1) Bottle-fed infants shall be fed at least once every four hours.

(2) The facility shall have appropriate food available for the infant.

(A) Where parents elect to provide food for infants but forget to bring the food, the facility shall provide appropriate foods.

(3) Introduction of solid foods shall be in accordance with the individual plan.

(d) The infant care center shall provide only commercially prepared formulas for infants.

(1) Commercial formula shall be stored and prepared in accordance with label directions.

(2) The specific brand of formula shall be specified in the feeding plan.

(3) Any change from one formula to another shall be reflected in advance on the feeding plan.

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(4) Staff of the infant care center shall not prepare infant formula from basic ingredients.

(e) Parents shall be permitted to provide formula or breast/mother's milk.

(1) Such formula or milk shall be bottled before being accepted by the center.

(A) Bottles shall be labeled.

(f) The infant care center shall be permitted to heat formula or breast/mother's milk.

(g) A supply of bottles and nipples shall be maintained at the infant care center. Bottles and nipples used by one infant shall not be shared with or used by another infant unless sterilized.

(h) Infants under six months who are unable to hold a bottle shall be held by a staff person or other adult for bottle feeding. At no time shall a child be placed in bed with a breast bottle bottle be propped for an infant. A child shall not be allowed to carry a bottle while ambulatory. A bottle given to an infant able to hold his/her own bottle shall be unbreakable.

- (i) High chairs or other appropriate seating equipment shall be used to seat children during feeding. Children who are unable to sit unassisted in a high chair or other seating equipment shall be held by a staff person or adult for feeding.
- (j) Bottles, dishes and containers of food brought by the parent shall be labeled with each child's name and the current date.
  - (1) Formula in a partially consumed bottle shall be discarded at the end of each day.
  - (2) Food shall be discarded if not consumed within 72 hours of the date on the container label.
  - (3) Bottles and dishes provided by the parent shall be rinsed and returned to the parent for sanitizing at the end of each day.
- (k) The facility shall not serve honey or corn syrup to any infant.
- (l) Commercially prepared baby food in jars shall be transferred to a dish before being fed to the infant.
  - (1) Any food left over in the dish at the end of the meal shall be discarded.
- (m) Arrangements for privacy, if requested, shall be made for mothers who, upon agreement with the facility, wish to nurse their infant in the facility.
- (n) Bottles and nipples maintained by the infant care center shall be sterilized using any of the following methods after each use:
  - (1) Boiled for a minimum of five minutes and air dried, or
  - (2) Soaked for a minimum of one minute in a sterilizing solution using 1/2 cup of bleach and five gallons of water and air dried, or
  - (3) Bottles may be washed and sterilized using a dishwasher.
- (o) Infants shall not be bathed nor shall diapers or clothing be rinsed in the food preparation area.

Authority Cited: Section 1596.81, Health and Safety Code.

Reference: Sections 1596.72, 1596.73, 1596.81, and  
1597.05, Health and Safety Code.

FM(22) Amend Section 101428 to read:

101428 INFANT CARE PERSONAL SERVICES

101428

- (a) Staff shall have special instruction so that they may understand the developmental needs of children at the time toilet training is begun. For infants being toilet trained there shall be a written toilet training plan.
- (1) The plan shall be developed by the infant's parent(s) and the director or assistant director.
- (2) The plan shall include the following:
- (A) Methods of toilet training;
- (B) Introduction and use of appropriate training equipment; and
- (C) Introduction and use of appropriate clothing.
- (3) Infants who are being toilet trained shall not be required to wear diapers unless specifically indicated in the plan.
- (4) The center shall follow the plan in toilet training the infant.
- (5) Center staff shall have ready access to the toilet training plan for infants in their care.
- (b) There shall be a plan for regular conferences and referral for social services. However, it shall be the policy of the nursery that the parent has primary responsibility for his/her own child, and the final decision for the child's care shall be his/her.
- (c) Provision shall be made for social services to be provided, as needed, to the families of children enrolled in the nursery.
- (d) Such social services may be provided in accordance with an agreement or contract with an established public or private social agency.
- (b) The infant shall be kept clean and dry at all times.

- (d1) Each child shall have The infant care center shall ensure that the infant has sufficient changes of clothing and diapers so that he/she his/her clothing and diapers can be clean and dry at all day times.
- (2) Each infant's clothing and diapers shall be changed as often as necessary to ensure that the infant is clean and dry at all times.
- (tc) Each child shall have a separate storage place for his/her clothing and this shall be clearly labeled. Soiled or wet clothing or cloth diapers provided by parents shall be placed in an airtight container and returned to the parent at the end of each day.
- (1) The airtight container shall prevent the escape of fluids and odors and be portable enough to give to the parent.
- (2) Disposable diapers or diaper service shall be used, and a separate container for diaper disposal shall be used.
- (ed) Each child shall have a separate crib, cot or floor pad for sleeping purposes and no other child shall occupy this. When changing an infant's diapers, the following shall apply:
- (1) Each child's bedding shall be used for him/her only, and shall be replaced when wet or soiled. Each infant shall be diapered on a changing table.
- (A) No infant shall be left unattended while on a changing table.
- (2) Bedding shall be changed daily. It shall be permissible to diaper infants on a changing pad placed on the floor, which meets the requirement of Section 101439(h).
- (3) Soiled disposable diapers shall be disposed of as recommended on the packaging or placed in an airtight container for daily disposal outside of the facility.
- (A) Containers shall be sanitized daily.
- (4) Soiled cloth diapers shall be placed in an airtight container.
- (5) Diapers provided by the facility when soiled shall be rinsed, washed and sanitized daily. If a diaper service is utilized, the diapers shall be placed in the diaper

service company container, as instructed, for pick-up by the diaper service.

(6) Towels and washcloths used for cleaning children shall not be shared with other children or staff and shall be washed after each use.

(7) The changing table and changing pads shall be disinfected after each use even when disposal covers are used.

(A) It shall be permissible to cover infant changing tables with disposable paper towels or a similar covering which shall be discarded following each diaper change.

(B) The floor space used for diaper changing, if soiled, shall be disinfected after each use.

(e) Whenever a potty chair is used, the following requirements shall be met:

(1) The potty chair shall be placed on the floor and used in accordance with the manufacturer's instructions.

(2) The potty chair shall be emptied into a flushing toilet promptly, all surfaces thoroughly cleaned, and disinfected after each use.

(3) No infant shall be left unattended while on a potty chair or seat.

(f) Toilet training shall include instruction and assistance in handwashing for each child after use of the toilet.

Authority Cited: Section 1596.81, Health and Safety Code.

Reference: Sections 1596.72, 1596.73, 1596.81, and 1597.05, Health and Safety Code.

(23) Adopt new Section 101429 to read:

101429      RESPONSIBILITY FOR PROVIDING CARE  
AND SUPERVISION FOR INFANTS

101429

(a) In addition to Sections 101229 and 101329, the following shall apply:

(1) Each infant shall be constantly supervised and under direct visual observation and supervision by a staff person at all times. Under no circumstances shall ANY infant be left unattended.

Authority Cited: Section 1596.81, Health and Welfare Code.

Reference: Sections 1596.72 and 1596.81, Health and Welfare Code.



FM(24) Adopt new Section 101430 to read:

101430 INFANT CARE ACTIVITIES

101430

(a) Notwithstanding Section 101330 the following shall apply:

- (1) The center shall develop, maintain, and implement a written plan to ensure indoor and outdoor activities designed to meet the needs of infants including but not limited to:
  - (A) Quiet and active play.
  - (B) Rest and relaxation.
  - (C) Eating.
  - (D) Toileting.
  - (E) Individual attention.
  - (F) Being held by care provider.
- (2) The center shall ensure the participation of the infants in the above activities.
- (3) All infants shall be given the opportunity to nap/sleep without distraction or disturbance from other activities at the center whenever the infant desires.
  - (A) No infant shall be forced to sleep, stay awake, or to stay in the napping area.
    - (i) The center is not prohibited from scheduling nap times for infants over 12 months.

Authority Cited: Section 1596.81, Health and Safety Code.

Reference: Sections 1596.72 and 1596.81, Health and Safety Code.

## Article 7. Physical Environment

FM(25) Amend Section 101438.1 to read:

### 101438.1 INFANT CARE GENERAL SANITATION

101438.1

(a) Nurseries shall maintain an acceptable level of general sanitation and cleanliness with regard to the building, playground, equipment, and storage of supplies, bedding, clothing, food, and other equipment. All items used by pets and animals shall be kept out of the reach of infants.

††(b) Each care-taking person caring for infants caregiver shall wash his/her hands with soap and water before each feeding and after each care-taking act involving contact with the infant diaper change.

(1) Only dispenser soap, including but not limited to liquid or powder in an appropriate dispenser, shall be used.

†2) Provision of proper washing of dishes, bottles, and utensils shall be made. Unless a dishwasher is used, they shall be dipped in a sterilizing solution and air dried.

†3) The use of common washcloths and towels for the children shall be prohibited.

(2) Only disposable paper towels, in an appropriate holder or dispenser, shall be used for hand drying.

†4) All rooms shall be cleaned daily.

†5) All walls and floors shall be made of such material that they can be easily washed.

†6) Diapering shall be done for each child in his/her own crib, or if a common changing table is used the cover shall be changed after each child's use. Disposable paper towels or appropriate substitute may be used for this purpose. An unpadded surface shall be wiped with soap and water after each use.

†7) If training chairs are used they shall be emptied promptly and sanitized at least once a day. The plastic one-piece units which can be immersed in a sanitizing solution are preferred.

(c) Washing, cleaning, and sanitizing requirements for areas to which infants have access or used by staff with infants are as follows:

(1) Floors, except those carpeted, shall be vacuumed or swept and mopped with a disinfecting solution at least daily or more often if necessary.

(2) Carpeted floors and large throw rugs which cannot be washed shall be vacuumed at least daily and cleaned at least every six months or more often if necessary.

(A) Small rugs which can be washed shall be shook or vacuumed at least daily and washed at least weekly or more often if necessary.

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HANDBOOK

Cleaning of carpets and large rugs may be through the use of commercial type cleaning machines commonly available through rental stores, grocery stores, etc., or the hiring of a professional cleaning service.

(3) Walls and portable partitions shall be washed with a disinfecting solution at least weekly or more often if necessary.

(4) The diaper changing area, where residue is splashed from soiled diapers and items and surfaces touched by staff during the diaper changing process, shall be washed and disinfected after each diaper change. Such areas, items and surfaces shall include but not be limited to the following:

(A) Walls and floors surrounding the immediate diaper changing area.

(B) Dispensers for talc, lotion, soap and paper towels.

(C) Countertops, sinks, drawers and cabinets.

(5) Sinks used to wash infants or rinse soiled clothing or diapers, shall be disinfected after each use.

(d) Objects used by infants which are mouthed, such as but not limited to, toys and blankets, shall be washed and disinfected at least daily or more often if necessary.

(e) Linens laundered by the facility, including but not limited to, bedding, towels, and washcloths used on or by infants shall be washed and sanitized at least daily, or more often if necessary.

(f) Washing/disinfecting solutions shall be freshly prepared each day using 1/4 cup of bleach per gallon of water. Other commercial disinfecting solutions shall be permitted and shall be used in accordance with label directions.

(g) All hazardous materials shall be removed immediately and stored as specified in Section 101238.

Authority Cited: Section 1596.81, Health and Safety Code.

Reference: Sections 1596.72, 1596.73, 1596.81, and 1597.05, Health and Safety Code.

FM(26) Amend Section 101438.2 to read:

101438.2 OUTDOOR ACTIVITY SPACE FOR INFANTS

101438.2

~~(a) There shall be adequate, well-fenced outdoor activity space, properly drained, shaded, free from rubbish, litter or other hazards.~~ In addition to Section 101338.2, the following shall apply:

(b) Outdoor activity space shall be physically separate from space used by children in the day care center and school-age child day care components.

~~(b)(c)~~ (c) There shall be space for these children who will be in playpens but who need an interesting area with both sun and shade. Placement of playpens shall not create hazards to other infants or adults in the play area.

~~(d)~~ (d) The outdoor activity space shall be equipped with a variety of age appropriate toys and equipment to provide development of large muscles.

Authority Cited: Section 1596.81, Health and Safety Code.

Reference: Sections 1596.72, 1596.73, 1596.81, and 1597.05, Health and Safety Code.

FM(27) Amend Section 101438.3 to read:

101438.3 INDOOR ACTIVITY SPACE FOR INFANTS

101438.3

~~(a) There shall be adequate indoor activity space separate from the sleeping area. There shall be sufficient space to provide areas where toddlers can explore in a safe manner an environment that offers stimulation and experimentation. In addition to Section 101338.3, the following shall apply:~~

~~(a) There shall also be space where children who cannot yet walk can be in playpens or can be placed on the floor for free play and crawling.~~

~~(a) The activity space shall be equipped with washable safe manipulative toys which lend themselves to the development of perceptual and auditory discriminations. They shall not be small enough to swallow nor made of material which could splinter.~~

~~(d) There also shall be sufficient space for quietness and privacy for those children who need it.~~

(b) Indoor activity space for infants shall be physically separate from space used by children in the day care and school-age child day care center components.

(1) The facility shall be permitted to use moveable walls or partitions to maintain the separation of the above groups in the same room, provided that each group has the total amount of square footage space required by regulation.

(2) Moveable walls or partitions, if used, shall be no shorter than four feet, be constructed of sound absorbing material, and designed to minimize risk of injury to infants.

(c) The calculation of the infants' indoor activity space shall not include space designated and used for the cribs.

(1) Infant's sleeping area shall be physically separate from the indoor activity space and shall be accomplished as specified in (b) above.

(d) Combination centers shall be permitted to utilize shared office space, food preparation space, storage space and any other general purpose space.

(e) The indoor activity space shall be equipped with pictures, books, record players, and other items so that it offers variety, change and encouragement to explore. The activity space shall be equipped with a variety of age appropriate washable toys and equipment.

Authority Cited: Section 1596.81, Health and Safety Code.

Reference: Sections ~~1596.72,~~ 1596.73, 1596.81, and 1597.05, Health and Safety Code.

FM(28) Adopt new Section 101439 to read:

101439      INFANT CARE CENTER FIXTURES, FURNITURE,      101439  
EQUIPMENT, AND SUPPLIES

(a) In addition to Section 101339 and notwithstanding Section 101339(b) the following shall apply:

(b) The facility shall be equipped with appropriate furniture and equipment including but not limited to cribs, cots, or mats, changing tables, and feeding chairs.

(c) The type, height, and size of furniture and equipment shall be age appropriate.

(d) Walkers, swings, walking harnesses, playpens and all such equipment and furniture shall be assembled or installed according to manufacturer's instructions provided with the equipment, and maintained in good repair and safe condition.

(1) Equipment which is purchased already assembled shall not be modified.

(A) An x-frame baby walker shall have protective covers over accessible coil springs, spacers between scissoring components, and locking devices to prevent the x-frame from collapsing.

(B) The wheel base shall be both wider and longer than the frame of the walker.

(e) High chairs or low wheeled feeding tables and any such equipment used for seating an infant shall have broad base legs.

(1) Seats and backrests shall be made of a washable and moisture resistant material.

(2) An infant shall not be permitted to pull on or climb on or into a high chair.

(3) Whenever an infant is in the high chair the tray shall be properly latched on both sides.

(4) An infant shall not be permitted to stand up in a high chair.



- (5) No infant shall be left unattended while in a high chair.
- (f) All such equipment or furniture shall be washed with a detergent/disinfectant after each use as specified in Section 101429.1.
- (g) Furniture shall be maintained in good repair and safe condition.
- (h) Infant changing tables shall:
- (1) Have a padded surface no less than one inch thick, covered with washable vinyl or plastic.
  - (2) Have raised sides at least three inches high.
  - (3) Be maintained in good repair and safe condition.
  - (4) While in use, be placed within arms reach of a sink.
  - (5) Not be located in the kitchen/food preparation area.
- (i) There shall be a minimum of one handwashing sink to every 15 children and one potty chair or combination of potty chairs and toilets with training seats to every five children being toilet trained.
- (1) Children shall not be permitted to play with potty chairs.
- (j) Toilets and potty chairs and handwashing sinks for children shall be in close proximity to indoor and outdoor activity space.
- (k) Toy storage containers shall meet the following requirements:
- (1) Lids and the hardware used to hinge lids on boxes or chests shall be removed.
  - (2) All edges and corners shall be rounded and padded.
  - (3) The container shall be well ventilated.
  - (4) The container shall not be lockable.
  - (5) The container shall be maintained in good repair and safe condition.

- (A) Metal toy boxes shall not have rough or sharp edges and wooden toy boxes shall not have splinters and other rough areas.

(1) Toys shall be safe and shall not have sharp points or edges or splinters or be made of small parts which can be pulled off and swallowed.

(1) The combination of toys shall provide and encourage:

(A) Auditory stimulation.

(B) Visual stimulation.

(C) Tactile stimulation.

(D) Manipulative skills.

(2) Pacifiers shall have a shield or guard large enough so that infants cannot choke on them.

(3) Rattles shall be large enough so that they cannot become lodged in an infant's throat and constructed so that they will not separate into small pieces.

## HANDBOOK

(4) It is recommended that centers comply with the following U.S. Consumer Product Safety Commission advice for the selection and safe use of children's toys.

(A) Avoid toys with small parts.

(B) Look for labels that give age recommendation.

(C) Toys should be suited to the skills, abilities and interests of the children.

(m) Fixtures, furniture equipment, supplies, and toys shall not be made of or contain toxic materials or substances.

Authority Cited: Section 1596.81, Health and Safety Code.

Reference: Sections 1596.72 and 1596.81, Health and Safety Code.

FM(29) Adopt new Section 101439.1 to read:

101439.1 INFANT CARE CENTER NAPPING EQUIPMENT

101439.1

(a) In addition to Section 101339.1 the following shall apply.

(b) A standard size six-year crib or porta-crib meeting the following requirements shall be provided for each infant who is unable to climb out of a crib:

(1) Stacking wall cribs or cribs stacked one on top of another, often referred to as tiered cribs, shall not be permitted.

(2) Cribs shall not limit the ability of staff to see the child.

(3) Cribs shall not limit a child's ability to stand upright.

(4) Crib mattresses shall be:

(A) Covered with vinyl or similar moisture resistant material.

(B) Wiped with a detergent/disinfectant daily and when soiled or wet.

(C) Maintained in a safe condition with no exposed foam, batting, or coils.

(5) Cribs equipped with bumper pads shall be covered with a vinyl or similar moisture resistant material. Each crib shall have a sheet to cover the mattress and a blanket and/or sheet to cover the child, depending on the temperature.

(A) If bumper pads are used, they shall be installed around the entire inner portion of the crib and tied or snapped into place in at least six places.

(B) The mattress shall be set at its lowest position and the side rail shall be locked in its highest position.

(C) Cribs shall have spaces between crib slats of no more than 2 3/8 inches.

(c) Floor mats or cots which meet the requirements specified in 101329.1(b) shall be provided for all children who have the ability to climb out of a crib.

(d) Each crib, floor mat, or cot shall be occupied by only one infant at a time.

(e) Each infant's bedding shall be used for him/her only and shall be replaced when wet or soiled or when the crib, floor mat, or cot is to be occupied by another child.

(1) Bedding shall be changed daily or more often if required by (d) above.

(A) Soiled bedding shall be placed in a suitable container and made inaccessible to children until washed or until picked up by commercial laundering service.

(f) Cribs, mats, or cots shall be arranged to provide a walkway and workspace between the cribs, mats, or cots sufficient to permit staff to reach each infant without having to step over or reach over any other infant.

(1) Placement of cribs, mats, or cots shall not hinder entrance or exit to and from the napping space.

Authority Cited: Section 1596.81, Health and Safety Code.

Reference: Sections 1596.72 and 1596.81, Health and Safety Code.

## FACE SHEET

SUBMITTED FOR REVIEW

APR 1 1987

OFFICE OF ADMINISTRATIVE LAW

ENDORSED  
APPROVED FOR FILING  
APR 14 1987

Office of Administrative Law

For use of Office of Adm Law

FOR FILING ADMINISTRATIVE REGULATIONS  
WITH THE OFFICE OF ADMINISTRATIVE LAW

CERTIFICATION: I hereby certify that the attached are true and correct copies of regulations adopted, amended or repealed by this agency and that the information specified on this Face Sheet is true and correct.

State Department of Social Services

(AGENCY)

*Paul S. McHugh*

AGENCY OFFICER WITH RULEMAKING AUTHORITY

Date: 3/20/87

87-0325-4  
**FILED**  
In the office of the Secretary of State  
of the State of California

APR 14 1987

At 3:59 o'clock P.M.

MARCH FONG EU, Secretary of State

By *James Bates*  
Deputy Secretary of State

For use by Secretary of State only

1. AGENCY CONTACT PERSON FOR THIS FILING  
(See instructions)

TITLE

TELEPHONE

Rosalie Clark

Chief, Regulations Development Bureau

445-0313

## 2. Type of filing, (check one)

☒ 30-day Review☐ Emergency☐ Certificate of Compliance  
(Complete Part 4 below)☐ Regulatory changes resulting from Govt. Code 11349.7 review (Complete Part 6 below)☐ Nonsubstantive changes with nonregulatory effect ☐ Printing Error Correction

## 3. a. Specify California Administrative Code title and sections as follows:

Title MPP

SECTIONS ADOPTED:

SECTIONS AMENDED:

44-111.44, 44-115.6, 44-133.31, 44-133.6 and .61, 44-133.714

SECTIONS REPEALED:

44-101.4

b. The following sections listed in 3a contain modifications to the text originally made available to the public: 44-111.3g, 44-111.44, 44-115.61, 44-133.31

## 4. CERTIFICATE OF COMPLIANCE (Government Code Section 11346.1(e): The above-named agency officer certifies that this agency complied with the provisions of Government Code Sections 11346.4-11346.8. (Check one)

☐ prior to the emergency adoption☐ within 120 days of the effective date of the emergency adoption of the above-referenced regulations.

## 5. Is this filing a resubmittal of a previously disapproved or withdrawn regulation?

☒ No ☐ Yes, if yes, give date(s) of prior submittal(s) to OAL:

## 6. Is the filing submitted to carry out amendments or repeals identified in the statement of review completion submitted as a result of the agency's review of regulations administered by it as of June 30, 1980?

☒ No ☐ Yes, if yes, give date statement was submitted to OAL

## 7. If these regulations required prior review and approval or concurrence by any of the following agencies, check appropriate box(es)

☐ Fair Political Practices Commission  
(Include FPPC approval stamp)☐ Building Standards Commission  
(Attach approval)☐ State Fire Marshall (Attach approval)☐ Department of Finance (Attach properly signed Std. 399)☐ Other

(SPECIFY AGENCY)

8. a. PUBLICATION DATE OF NOTICE IN CALIFORNIA  
ADMINISTRATIVE NOTICE REGISTER

November 28, 1986

## b. DATE OF FINAL AGENCY ACTION

March 20, 1987

c. DATES OF AVAILABILITY OF MODIFIED REGULATION(S) (GOVT.  
CODE SEC. 11346.8(c))

February 25 to March 11, 1987

## 9. Effective date of regulatory changes: (See Government Code Section 11346.2 and instructions on reverse)

a. ☐ Effective 30th day after filing with the Secretary of State.b. ☐ Effective upon filing with the Secretary of State.c. ☐ Effective on \_\_\_\_\_ as required or allowed by the following statute(s): \_\_\_\_\_d. ☐ Effective on \_\_\_\_\_ (Designate effective date *earlier than* 30 days after filing with the Secretary of State pursuant to Govt. Code Sect. 11346.2(d).)

Attach request demonstrating good cause for early effective date. Request subject to OAL approval.

e. ☒ Effective on June 1, 1987 (Designate effective date *later than* the normal effective date for the type of order filed.)

## INSTRUCTIONS FOR STD 400

Completed Face Sheet for Filing Regulations with the Office of Administrative Law must be attached to the front of each of the seven copies of the regulations. Note that at least one Face Sheet must contain an original signature of the agency officer with rulemaking authority.

- Part 1. Provide the name and telephone number of the person who is authorized during the review period to answer questions regarding this regulatory filing. If different than person designated in certification box, attach order delegating authority for making decisions regarding these regulations.
- Part 2. Check the appropriate box. NOTE: Nonsubstantive changes are reviewed by and are subject to OAL approval.
- Part 3 a. Provide the Administrative Code Title in which the regulation will appear and list *section* number of each regulation to be amended, adopted or repealed. *When filing a Certificate of Compliance list the section number of each emergency regulation formally adopted after completion of the rulemaking procedures of the APA.* (Attach additional sheets if necessary.)
- b. Please list the section number of each regulation which includes modifications to the text to the regulations originally made available to the public pursuant to Government Code Section 11346.5(b), and adopted, amended or repealed as modified pursuant to Government Code Section 11346.8(c). The sections listed here must correspond to the sections which were made available for 15 days pursuant to Government Code Section 11346.8(c).
- Part 4. Check appropriate box as necessary to comply with the requirements of Government Code Section 11346.1(e).
- Part 5. Specify date(s) and file number(s) of each prior submittal of these regulatory changes which was withdrawn or disapproved.
- Part 6. OAL has a longer time period to review regulatory changes submitted to carry out amendments and repeals which are identified in the agency's Statement of Review Completion and which have been submitted as a result of the agency's review of regulations administered by it as of June 30, 1980. Therefore, these regulatory changes should be submitted in a separate filing from any other regulatory changes. If not submitted separately, regulations not resulting from the review and any material in the rulemaking file relating to them must be clearly identified.
- Part 7. Certain regulatory activities must be reviewed and approved by other state agencies prior to submittal to OAL. Regulations subject to prior approval include:
- Fire and panic safety regulations (Govt. Code Sec. 11342.3.).
  - Building standards as defined in Section 18909 of the Health and Safety Code (Govt. Code Sec. 11343).
  - Conflict of Interest regulations (Title 2 California Admin. Code Section 18750(i)).
- Note: Where regulations have a fiscal impact on state, local or federal government or result in reimbursable costs to local government or school districts the fiscal impact statement must be reviewed, approved and signed by the Department of Finance before the regulations will be accepted for filing by OAL. See Government Code Sections 11349.1, 11346.5(a)(6), and S.A.M. sections 6050-6057.
- Part 8 a. Provide the publication date of the Notice Register in which the notice of proposed action appeared.
- b. Provide the date on which the regulatory agency adopted the regulatory changes.
- c. If the regulations were modified subsequent to the hearing or written comment period, provide the dates during which the modified regulations were made available to the public. Note that period must be at least 15 days and must be completed prior to the date the agency adopts the modified text. All modifications must be clearly indicated.
- Part 9. Effective Dates — check one of the following:
- A regulation or order of repeal is effective 30 days after filing with the Secretary of State unless a different date is specified below.
  - An emergency order, Certificates of Compliance or nonsubstantive change is effective upon filing with the Secretary of State unless a later date is specified below.
  - If an effective date other than specified above is required or allowed by statute, provide the date and the statutory citations(s).
  - If an early effective date is being requested, please attach a letter specifying the date the regulation(s) should take effect and the reason for the early effective date. Requests are granted by OAL upon a showing of good cause.
  - If an effective date later than specified above is requested, provide the date.

### FILING REQUIREMENTS

The following material must be submitted when filing regulations with OAL:

- Seven (7) copies of the regulations. Note: Use underline and strikeout to indicate changes in an existing section. For adoption of a new section, underline new text. The repeal of an entire section may be indicated by placing a diagonal slash through the text to be repealed.
- A completed Face Sheet for filing regulations with the Office of Administrative Law, Form STD 400 attached to the front of each copy of the regulations, with at least one Face Sheet bearing an original signature.
- Complete rulemaking file, with index and sworn statement. (See Govt. Code Sec. 11347.3 for full list of rulemaking contents.)

DELEGATED AUTHORITY ORDER

I hereby authorize and designate Rosalie P. Clark, Chief, Regulations Development Bureau as the agency contact person who has authority to make decisions and answer questions regarding this regulation order.

A handwritten signature in cursive script, appearing to read "Linda S. McMahon".

LINDA S. McMAHON  
Director

44-101 INCOME DEFINITIONS (Continued)

44-101

44 Casual Income and Income From an Inconsequential Resource

- 441 Casual income and inconsequential assistance is income in cash or in kind which is: (1) unpredictable as to amount and time of receipt; (2) of short duration; and (3) by itself of negligible importance in meeting continuing needs under the appropriate aid standards.
- 442 Income from an inconsequential resource is the net return from an interest in real or personal property which by itself makes no appreciable contribution to the continuing needs of a recipient under the aid standards.

The following examples illustrate some types of income which usually are considered casual income or income from an inconsequential resource:

- a. Income from occasional labor and services of a temporary nature and which offer no security as a regular source of maintenance.
- b. Income from occasional sale of products or resulting from work engaged in wholly or primarily for its therapeutic value, such as knitting, art work, cabinet work, etc.
- c. Income from occasional rental of a room which is not ordinarily advertised or listed for rent and which is rented for a short period only.
- d. The value of the usual small gifts in cash or in kind given in commemoration of holidays and anniversaries or a gift in kind earmarked for a specific purpose and not useful for meeting the continuing needs of the recipient, such as a gift of a ticket for a trip. Gifts of personal property such as a radio, refrigerator, etc.
- e. Returns from home produce from garden, orchard, farm, livestock, poultry, firewood, etc., which is sold or exchanged.
- f. Interest on securities which have no appreciable significance in meeting continuing needs.



- gv Results of occasional barter transactions, such as the exchange of wood produced on the recipient's property for work on the road leading to his house.
- hw Dues and membership fees in benevolent, fraternal, or other nonprofit organizations which are assumed by the organization or by another person on behalf of the recipient.
- iv Emergency relief granted a recipient who has lost or spent his grant.

Authority Cited: Sections 10553, 10554, and 10604(b), Welfare and Institutions Code.

Reference: Section 11018, Welfare and Institutions Code.

Amend MPP 44-111.44 to read:

44-111 PAYMENTS EXCLUDED OR EXEMPT FROM CONSIDERATION 44-111  
AS INCOME (Continued)

.4. Exclusions or Exemptions of Other Payments and Income  
(Continued)

.44 Casual Income and Income from and Inconsequential  
Resource Small Nonrecurring Gifts

.441 The first Sixty Dollars (\$60) per quarter of casual income and income from an inconsequential resource which is received infrequently or irregularly is considered exempt from consideration as income. The first \$30 of cash income from small nonrecurring gifts, such as those for Christmas, birthdays, and graduation, which is received by each member of the assistance unit during any calendar quarter shall be exempt from consideration as income. (See Section 44-101.44) A calendar quarter is three consecutive calendar months commencing with the first day of the first month and ending with the last day of the third month. The first month for each of the four quarters shall be January, April, July, and October.

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EXAMPLE: The recipient receives \$35 in cash for a birthday gift in a given quarter.

DISCUSSION: The first \$30 of the gift is exempt.

EXAMPLE: The recipient receives \$20 in cash for a birthday gift and, in the same quarter, receives \$20 for a graduation gift.

DISCUSSION: The first \$20 gift is exempt; \$10 of the second gift is exempt, for a total exemption of \$30.

**Authority Cited:** Sections 10553, 10554, and 10604(b), Welfare and Institutions Code.

**References:** Section 11018, Welfare and Institutions Code;  
45 CFR Section 233.20(a)(3)(iv)(F).

Amend and renumber MPP 44-115.6 and renumber subsections .7 and .8 to read:

44-115 EVALUATION OF INCOME IN KIND

44-115

When a need item is earned or contributed in kind, the income value placed upon such earnings, contributions, etc., is the amount specified below.

.61 Free Board and Lodging Received During Temporary Absence from Home

.611 Absence One Month or Less

The value of free board and lodging received by a recipient during a temporary absence from his home of not more than one calendar month shall be exempt, considered inconsequential. (See Regulations 44-1814 and 44-111444.)

.612 (Continued)

.63 Definition of "One Month"

For purposes of this section, one month is considered to be 30 calendar days, starting with the first full day of absence from the home.

.72 (Continued)

.721 (Continued)

.722 (Continued)

.83 (Continued)

.831 (Continued)

.8311 (Continued)

.832 (Continued)

.833 (Continued)

.8331 (Continued)

.8332 (Continued)

.8333 (Continued)

**Authority Cited:** Sections 10553, 10554, and 10604(b), Welfare and Institutions Code.

**Reference:** Section 11018, Welfare and Institutions Code;  
Section 11349(c), Government Code.

Amend MPP 44-133.31 to read:

44-133 TREATMENT OF INCOME -- (Continued)

44-133

.3 Income in Cases in Which a Parent or Child has been Excluded from the Assistance Unit

.31 Income shall not be allocated to meet the needs of any parent or child who is required to be included in the filing unit and has been sanctioned or who has failed to cooperate in meeting a condition of eligibility. Actions which are subject to sanction or which constitute a failure to cooperate include, but are not limited to, any one of the following:

(a) Failing to register for WIN DEMO, JS, GAIN, or refusing, without cause, to participate in the programs [HANDBOOK: (see Section 41-440.2, 42-625, and 42-786, respectively)];

(b) Refusing to furnish or cooperate in securing a social security number for himself/herself [HANDBOOK: (see Section 40-105.2)];

(c) Refusing to assign rights to child and spousal support payments [HANDBOOK: (see Section 43-106.1)];

(d) Refusing to cooperate in the identification and location of the absent parent, establishment of paternity, and enforcement of child support obligation, without a showing of good cause [HANDBOOK: (see Section 43-107.47)];

(e) Refusing to take actions necessary to obtain unconditionally available income [HANDBOOK: (see Section 44-103.212)].

.32 Income of the parent or child who is excluded from the assistance unit pursuant to the provisions of Section 44-133.31 shall be allocated to the assistance unit without the application of earned income disregards or consideration of his/her own needs. [HANDBOOK: (See Section 44-113.2 for earned income disregards.)]

.313 If a parent or child living in the home is required to apply for aid under Section 40-118 and but is excluded from the assistance unit for reasons other than the provisions of Sections 44-133.31, being a recipient of

another aid program, or a member of a different assistance unit, a portion of his/her income is income to the assistance unit. This portion is determined as follows:

- 31131 Determine the parent or child's net nonexempt income according to Chapter 44-100. Allow disregards in Section 44-113 except the \$30 and 1/3 or, as applicable, the \$30 disregard.
- 31232 Subtract the maximum aid for the number of persons in the assistance unit, excluding the parent or child, from the maximum aid for the persons in the assistance unit, including the parent or child. To this difference add any allowable recurring special needs for the excluded parent or child if such needs are verified. The maximum amount allowed for recurring special needs for the excluded parent or child shall not exceed \$10. This subsection does not apply when an excluded parent or child is included in a stepparent unit (see 44-133.6) or in a senior parent unit (see 44-133.7).
- 31333 Subtract the figure determined in 31232 from income determined in 31131 above. The remaining amount is income to the assistance unit.

Example:

A parent with earned income is excluded from the assistance unit which consists of three children. Monthly gross earned income is \$350. Assume MAP for 3 is \$506 and MAP for 4 is \$601.

Gross Income	\$350
Standard Work Expense Disregard (See Section 44-113.214)	<u>- 75</u>
Net Income	\$275
MAP for 4	\$601 *
MAP for 3	<u>-506 *</u>
MAP Differential	\$ 95
Verified Special Needs	<u>+ 9</u>
	\$104
Net Income	\$275
MAP Differential + Verified Special Needs	<u>-104</u>
Income to the Assistance Unit	\$171
MAP for 3	\$506 *
Income to the Assistance Unit	<u>-171</u>
Grant	\$335

\*MAP amounts are subject to change. Use currently applicable amounts specified in 44-315.411.

.334 The Simon v. McMahon court order prohibits the counting of income and property of a child when the family chooses to exclude the child from the assistance unit. (See Section 40-118.111 and ACL 86-04.)

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Authority Cited: Sections 10553, 10554, and 10604(b), Welfare and Institutions Code.

Reference: Section 11008.14, Welfare and Institutions Code; 45 CFR Section 233.20(a)(3)(ii)(C).



Amend MPP 44-133.6 and .61 to read:

44-133 TREATMENT OF INCOME -- AFDC (Continued)

44-133

.6 Income In Cases Where A Stepparent Resides In The Home

Regulations concerning income to the FBU assistance unit from a stepparent (see .63 below) apply only when the stepparent resides in the same household with the aided children or unaided unborn (See Section 44-205.256) and their parent but neither the stepparent nor any of his/her natural or adoptive children are in the Family Budget Unit (FBU) assistance unit.

Note: When the stepparent is included in the FBU assistance unit (see Sections 44-203 and 44-205), the total amount of his/her net nonexempt income shall be income to the FBU assistance unit for purposes of grant and eligibility computation.

When the stepparent is not included in the FBU assistance unit but one or more of his/her children is in the FBU assistance unit, the stepparent is an excluded parent. See EAS 44-133.3 for treatment of his/her income.

.61 Definition of Stepparent Unit

The stepparent, his/her spouse, his/her separate children and the children he/she has in common with his/her spouse, and any other persons residing in the home who may be claimed by the stepparent as dependents for federal income tax purposes are members of the Stepparent Unit when they are not in the FBU assistance unit. However, the Stepparent Unit shall not include any individual who has been excluded from the assistance unit pursuant to the provisions of Section 44-133.31.

Authority Cited: Sections 10553, 10554, and 10604(b), Welfare and Institutions Code.

Reference: Section 11008.14, Welfare and Institutions Code; 45 CFR Section 233.20(a)(3)(xiv).

Amend MPP 44-133.714 to read:

44-133 TREATMENT OF INCOME -- AFDC (Continued)

44-133

.7 Income in Cases Where the Senior Parents or Legal Guardians Reside in the Home with a Minor Parent.

.71 Definitions (Continued)

.714 A Senior Parent Unit consists of the senior parent or legal guardian, his/her spouse, his/her children and any other persons residing in the home who may be claimed by the senior parent or legal guardian as dependents for federal income tax purposes when they are not in the assistance unit. However, the Senior Parent Unit shall not include any individual who has been excluded from the assistance unit pursuant to the provisions of Section 44-133.31. When the minor parent is excluded from the assistance unit for reasons other than being an SSI/SSP recipient, or being excluded pursuant to the provisions of Section 44-133.31, the minor parent shall be a member of the Senior Parent Unit.

Authority Cited: Sections 10553, 10554, and 10604(b), Welfare and Institutions Code.

Reference: Section 11008.14, Welfare and Institutions Code; 45 CFR Section 233.20(a)(3)(xviii); 45 CFR 233.20(a)(3)(xiv).

FACE SHEET

87-0330-2C  
RDB #0986-39  
(See Instructions on Reverse)

SUBMITTED FOR REVIEW

1987

OFFICE OF ADMINISTRATIVE LAW

ENDORSED  
APPROVED FOR FILING

APR 28 1987

Office of Administrative Law

For use of Office of Adm Law

FOR FILING ADMINISTRATIVE REGULATIONS  
WITH THE OFFICE OF ADMINISTRATIVE LAW

CERTIFICATION: I hereby certify that the attached are true and correct copies of regulations adopted, amended or repealed by this agency and that the information specified on this Face Sheet is true and correct.

DEPARTMENT OF SOCIAL SERVICES

(AGENCY)

*Irish S. McArthur*

AGENCY OFFICER WITH RULEMAKING AUTHORITY

Date: 3/27/87

FILED

In the office of the Secretary of State  
of the State of California

APR 28 1987  
At 4:37 o'clock P.M.

MARCH FONG EU, Secretary of State

By *David Ness*  
Deputy Secretary of State

For use by Secretary of State only

1. AGENCY CONTACT PERSON FOR THIS FILING  
(See instructions)  
Rosalie Clark, Chief Regulations Development Bureau 445-0313
2. Type of filing, (check one) ☐ 30-day Review ☐ Emergency ☒ Certificate of Compliance (Complete Part 4 below)  
☐ Regulatory changes resulting from Govt. Code 11349.7 review (Complete Part 6 below)  
☐ Nonsubstantive changes with nonregulatory effect ☐ Printing Error Correction
3. a. Specify California Administrative Code title and sections as follows:  
Title \_\_\_\_\_  
SECTIONS ADOPTED: 63-063, 63-301.543(d), 63-801.61, .611, .62, 63-802.542 and .542(a)  
SECTIONS AMENDED: 63-300.515, .515(a), 63-301.541(b), 63-502.111, .121(a), and 63-801.1  
SECTIONS REPEALED: 63-801.61 and .62  
b. The following sections listed in 3a contain modifications to the text originally made available to the public: \_\_\_\_\_
4. CERTIFICATE OF COMPLIANCE (Government Code Section 11346.1(e): The above-named agency officer certifies that this agency complied with the provisions of Government Code Sections 11346.4-11346.8. (Check one)  
☐ prior to the emergency adoption  
☒ within 120 days of the effective date of the emergency adoption of the above-referenced regulations.
5. Is this filing a resubmittal of a previously disapproved or withdrawn regulation?  
☒ No ☐ Yes, if yes, give date(s) of prior submittal(s) to OAL: \_\_\_\_\_
6. Is the filing submitted to carry out amendments or repeals identified in the statement of review completion submitted as a result of the agency's review of regulations administered by it as of June 30, 1980?  
☒ No ☐ Yes, if yes, give date statement was submitted to OAL: \_\_\_\_\_
7. If these regulations required prior review and approval or concurrence by any of the following agencies, check appropriate box(es)  
☐ Fair Political Practices Commission (Include FPPC approval stamp) ☐ Building Standards Commission (Attach approval)  
☐ State Fire Marshall (Attach approval) ☐ Department of Finance (Attach properly signed Std. 399)  
☐ Other \_\_\_\_\_ (SPECIFY AGENCY)
8. a. PUBLICATION DATE OF NOTICE IN CALIFORNIA ADMINISTRATIVE NOTICE REGISTER  
October 31, 1986  
b. DATE OF FINAL AGENCY ACTION  
March 27, 1987  
c. DATES OF AVAILABILITY OF MODIFIED REGULATION(S) (GOVT. CODE SEC. 11346.8(c))  
N/A
9. Effective date of regulatory changes: (See Government Code Section 11346.2 and instructions on reverse)  
a. ☐ Effective 30th day after filing with the Secretary of State.  
b. ☒ Effective upon filing with the Secretary of State.  
c. ☐ Effective on \_\_\_\_\_ as required or allowed by the following statute(s): \_\_\_\_\_  
d. ☐ Effective on \_\_\_\_\_ (Designate effective date *earlier than* 30 days after filing with the Secretary of State pursuant to Govt. Code Sect. 11346.2(d).)  
Attach request demonstrating good cause for early effective date. Request subject to OAL approval.  
e. ☐ Effective on \_\_\_\_\_ (Designate effective date *later than* the normal effective date for the type of order filed.)

## INSTRUCTIONS FOR STD 400

Completed Face Sheet for Filing Regulations with the Office of Administrative Law must be attached to the front of each of the seven copies of the regulations. Note that at least one Face Sheet must contain an original signature of the agency officer with rulemaking authority.

- Part 1. Provide the name and telephone number of the person who is authorized during the review period to answer questions regarding this regulatory filing. If different than person designated in certification box, attach order delegating authority for making decisions regarding these regulations.
- Part 2. Check the appropriate box. NOTE: Nonsubstantive changes are reviewed by and are subject to OAL approval.
- Part 3 a. Provide the Administrative Code Title in which the regulation will appear and list *section* number of each regulation to be amended, adopted or repealed. *When filing a Certificate of Compliance list the section number of each emergency regulation formally adopted after completion of the rulemaking procedures of the APA.* (Attach additional sheets if necessary.)
- b. Please list the section number of each regulation which includes modifications to the text to the regulations originally made available to the public pursuant to Government Code Section 11346.5(b), and adopted, amended or repealed as modified pursuant to Government Code Section 11346.8(c). The sections listed here must correspond to the sections which were made available for 15 days pursuant to Government Code Section 11346.8(c).
- Part 4. Check appropriate box as necessary to comply with the requirements of Government Code Section 11346.1(e).
- Part 5. Specify date(s) and file number(s) of each prior submittal of these regulatory changes which was withdrawn or disapproved.
- Part 6. OAL has a longer time period to review regulatory changes submitted to carry out amendments and repeals which are identified in the agency's Statement of Review Completion and which have been submitted as a result of the agency's review of regulations administered by it as of June 30, 1980. Therefore, these regulatory changes should be submitted in a separate filing from any other regulatory changes. If not submitted separately, regulations not resulting from the review and any material in the rulemaking file relating to them must be clearly identified.
- Part 7. Certain regulatory activities must be reviewed and approved by other state agencies prior to submittal to OAL. Regulations subject to prior approval include:
- a. Fire and panic safety regulations (Govt. Code Sec. 11342.3.).
- b. Building standards as defined in Section 18909 of the Health and Safety Code (Govt. Code Sec. 11343).
- c. Conflict of Interest regulations (Title 2 California Admin. Code Section 18750(i)).
- Note: Where regulations have a fiscal impact on state, local or federal government or result in reimbursable costs to local government or school districts the fiscal impact statement must be reviewed, approved and signed by the Department of Finance before the regulations will be accepted for filing by OAL. See Government Code Sections 11349.1, 11346.5(a)(6), and S.A.M. sections 6050-6057.
- Part 8 a. Provide the publication date of the Notice Register in which the notice of proposed action appeared.
- b. Provide the date on which the regulatory agency adopted the regulatory changes.
- c. If the regulations were modified subsequent to the hearing or written comment period, provide the dates during which the modified regulations were made available to the public. Note that period must be at least 15 days and must be completed prior to the date the agency adopts the modified text. All modifications must be clearly indicated.
- Part 9. Effective Dates — check one of the following:
- a. A regulation or order of repeal is effective 30 days after filing with the Secretary of State unless a different date is specified below.
- b. An emergency order, Certificates of Compliance or nonsubstantive change is effective upon filing with the Secretary of State unless a later date is specified below.
- c. If an effective date other than specified above is required or allowed by statute, provide the date and the statutory citations(s).
- d. If an early effective date is being requested, please attach a letter specifying the date the regulation(s) should take effect and the reason for the early effective date. Requests are granted by OAL upon a showing of good cause.
- e. If an effective date later than specified above is requested, provide the date.

### FILING REQUIREMENTS

The following material must be submitted when filing regulations with OAL:

- *Seven (7) copies of the regulations.* Note: Use underline and strikeout to indicate changes in an existing section. For adoption of a new section, underline new text. The repeal of an entire section may be indicated by placing a diagonal slash through the text to be repealed.
- *A completed Face Sheet for filing regulations with the Office of Administrative Law, Form STD 400* attached to the front of each copy of the regulations, with at least one Face Sheet bearing an original signature.
- *Complete rulemaking file, with index and sworn statement.* (See Govt. Code Sec. 11347.3 for full list of rulemaking contents.)

CERTIFICATE OF COMPLIANCE - Section 11346.1(e), Government Code

The Department of Social Services hereby certifies that it has complied with the provisions of Sections 11346.4 through 11346.8 inclusive of the Government Code, within 120 days of the effective date of the following emergency regulations which were filed with the Secretary of State on October 31, 1986, and which became effective on December 1, 1986.

Sections 63-063, 63-300.515, .515(a), 63-301.541(b), .543(b), .543(d), 63-502.111, .121(a), 63-801.1, .61, .611, .62, 63-802.542, and .542(a).

No Amendments or repealers resulted from the public hearing held on December 17, 1986.



LINDA S. McMAHON  
Director

3/27/87

Date

DELEGATED AUTHORITY ORDER

I hereby authorize and designate Rosalie P. Clark, Chief, Regulations Development Bureau as the agency contact person who has authority to make decisions and answer questions regarding this regulation order.

A handwritten signature in cursive script, appearing to read "Linda S. McMahon".

LINDA S. McMAHON  
Director

Adopt MPP Section 63-063 to read:

63-063 OBRA AND NONDISCRETIONARY FOOD STAMP REGULATIONS #1 63-063

Implementation of Sections 63-300.515(a), 63-301.541(b), 63-301.543(b), 63-502.121, 63-801.1 as amended and 63-301.543(d), 63-801.6; and 63-802.542 are hereby adopted and shall become effective December 1, 1986 and implemented as follows:

- .1 Effective December 1, 1986, the revised and newly adopted or revised provisions shall be applied to new food stamp applications.
- .2 The revised Section 63-502.121 shall be used to calculate food stamp benefits beginning with the January 1, 1987 allotments for continuing households.
- .3 Sections 63-801.1, 63-801.6 and 63-802.542 which are revised or adopted herein on claims for overissuances and restoration of lost benefits shall apply to all claims established after November 30, 1986.

Authority Cited: Sections 18902 and 18904, Welfare and Institutions Code.

Reference: Sections 10553, 10554, and 18904, Welfare and Institutions Code.

Amend MPO Section 63-300.515 and .515(a) to read:

63-300 APPLICATION PROCESS (Continued)

63-300

.5 Verification (Continued)

.51 Mandatory Verification (Continued)

.515 Residency

The residency requirements of Section 63-401 shall be verified except as provided in .515(a). Verification of residency should be accomplished to the extent possible in conjunction with the verification of other information such as, but not limited to: rent or mortgage payments, utility expenses, and identity.

If verification cannot be accomplished in conjunction with the verification of other information, a collateral contact or other readily available documentary evidence shall be used. Any documents or collateral contact which reasonably establish the applicant's residency must be accepted and no requirement for a specific type of verification may be imposed.

- a. In certain unusual cases, such as some migrant farm worker households, homeless households or households newly arrived in the community, verification of residency may be impossible to obtain or may not exist. In such instances, if the applicant, with the county's assistance, has made reasonable efforts to obtain verification and (1) verification cannot be obtained; and (2) the applicant's statement regarding residency is not questionable as defined in Section 63-300.53, the county shall proceed with certification if the household is otherwise eligible. The determination that verification of residency cannot be obtained shall be documented in the case file, per Section 63-300.55. Verification of residency shall be provided by these households prior to their next certification except for homeless households.



Authority Cited: Sections 10553 and 18904, Welfare and Institutions Code.

Reference: Section 18902, Welfare and Institutions Code, and 7 CFR 273.2(f)(1)(vi).

Amend MPP Section 63-301.541(b) to read:

63-301 APPLICATION PROCESSING TIME STANDARDS (Continued) 63-301

.5 Expedited Service (Continued)

.54 (Continued)

.541 The CWD shall use the following procedures when expediting certification and issuance:  
(Continued)

(b) All reasonable efforts shall be made to verify within the expedited processing standards, the household's residency, as specified in Section 63-300.515, income statement (including a statement that the household has no income), liquid resources, and all other factors required by Section 63-300.51 through collateral contacts or readily available documentary evidence. However, benefits shall not be delayed beyond the delivery standards prescribed in Section 63-301.53 solely because these eligibility factors have not been verified. Except as provided for in Sections 63-403.31 and .32, verification of these eligibility factors shall be postponed if unobtainable within the expedited processing standards.

Authority Cited: Sections 10553 and 18904, Welfare and Institutions Code.

Reference: Section 18904, Welfare and Institutions Code, and 7 CFR 273.2(i)(4)(i)(B).

Amend MPP Section 63-301.543(b) and adopt MPP Section 63-301.543(d) to read:

63-301 APPLICATION PROCESSING TIME STANDARDS (Continued) 63-301

•5 Expedited Service (Continued)

•54 (Continued)

•543 (Continued)

(b) When households which apply for benefits after the 15th of the month provide the required postponed verification, the CWD shall issue the second month's benefits within five working days from receipt of the verification or the first day of the second calendar month, whichever is later. In CWDs that have staggered issuance, this shall be the first working day of the second calendar month, not the day benefits are issued using staggered issuance. This first working day of the calendar month issuance provision shall also apply to issuance in the third month for those migrant farmworker households needing out-of-state verification as outlined in Section 63-301.543(c). (Continued)

(d) Households which applied for benefits after the 15th of the month who have not postponed verification shall be issued at least one full month's benefits before being placed in a staggered issuance cycle. If certified for more than one month, all households eligible for expedited service, who apply after the 15th of the month, shall be issued their first month's benefits within the expedited service time frames as specified in Section 63-301.53. In CWDs that have staggered issuance, the second month's benefits shall be issued on the first working day of the second calendar month, not the day benefits are issued using staggered issuance.

Authority Cited: Sections 10553 and 18904, Welfare and Institutions Code.

Reference: Section 18901, Welfare and Institutions Code, and CFR 273.2(i)(4)(iii)(B) and (C).

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Amend MPP Section 63-502.111 and adopt MPP Section 63-502.121(a) to read:

63-502 INCOME, EXCLUSION AND DEDUCTION (Continued) 63-502

.1 Income Definition (Continued)

.11 Earned income shall include:

.111 All wages and salaries of an employee.

.112 (Continued)

.113 (Continued)

.114 (Continued)

.12 Unearned income shall include, but not be limited to:

.121 Assistance payments from federal or federally aided public assistance programs, such as Aid to Families with Dependent Children (AFDC); General Assistance (GA) programs or other assistance programs based on need except as provided in Section 63-501.111.

(a) Assistance payments from programs which require, as a condition of eligibility, the actual performance of work without compensation other than the assistance payments themselves, shall be considered unearned income, except for special allowances excluded under Section 63-502.2(e)(1)(A).

Authority Cited: Sections 10553 and 18904, Welfare and Institutions Code.

Reference: Section 18901, Welfare and Institutions Code, and 7 CFR 273.9(b)(1)(i) and 7 CFR 273.9(b)(2)(i).

Amend MPP Section 63-801.1 to read:

63-801 CLAIMS AGAINST HOUSEHOLDS (Continued)

63-801

•1 Establishing Claims Against Households and/or Against Sponsors of Alien Households

All adult household members shall be jointly and individually liable for the value of any overissuance of benefits to the household. The CWD shall establish a claim, in accordance with Section 63-801.2, against any household that has received more food stamp benefits than it is entitled to receive or any household which contains an adult member who was an adult member of another household that received more food stamp benefits than it was entitled to receive, except as specified in Section 63-801.12. Any sponsor of an alien and the sponsored alien shall be held jointly and individually liable for repayment of any overissuance of food stamp benefits that results from incorrect information provided by the sponsor. In such cases, the CWD shall establish a claim against the sponsor or the alien household as provided in Section 63-801.13.

Authority Cited: Sections 10553 and 18904, Welfare and Institutions Code.

Reference: Section 18901, Welfare and Institutions Code, and 7 CFR 273.18(a).

Repeal MPP Sections 63-801.61 and 63-801.62; and adopt new MPP Sections 63-801.61, 63-801.611 and 63-801.62 to read:

63-801 CLAIMS AGAINST HOUSEHOLDS (Continued)

63-801

•6 Change in Household Composition

- 61 The CWD shall initiate collection action against any or all of the adult members of a household which received an overissuance for which an intentional Program violation, inadvertent household or administrative error claim was established in accordance with Section 63-801.1.
- 611 If a change-in household composition occurs, the CWD shall initiate collection action which may be taken against any or all households which contain an adult member who was an adult member of the original household that received an overissuance. The CWD may also offset the amount of the claim against restored benefits in accordance with Section 63-802.542.
- 62 In pursuing claims, the CWD shall use any of the appropriate methods of collecting payments as specified in Sections 63-801.43 and 63-801.7. The CWD shall not collect more than the amount of the claim under any circumstances.

Authority Cited: Sections 10553 and 18904, Welfare and Institutions Code.

Reference: Sections 18901 and 18902, Welfare and Institutions Code, and 7 CFR 273.18(a) and 7 CFR 273.18(f).

Adopt MPP Sections 63-802.542 and .542(a) to read:

63-802 RESTORATION OF LOST BENEFITS (Continued) 63-802

.5 Computing the Benefit to be Restored (Continued)

.54 (Continued)

.542 If a change in household composition occurs, the CWD shall offset the amount of the claim against restored benefits in accordance with Sections 63-801.313 and 63-801.323. This action may be taken against any or all households which contain a member who was an adult member of the original household at the time the overissuance occurred (see Section 63-801.1).

(a) The CWD shall not collect more than the amount of the claim under any circumstances.

Authority Cited: Sections 10553 and 18904, Welfare and Institutions Code.

Reference: Sections 18901, 18902, Welfare and Institutions Code, and 7 CFR 273.18(a) and 7 CFR 273.18(f).



FACE SHEET

87-0414-2C

(See Instructions on Reverse)

RDB #1186-52

SUBMITTED FOR REVIEW

APR 14 1987

OFFICE OF ADMINISTRATIVE LAW

ENDORSED  
APPROVED FOR FILING  
MAY 11 1987

Office of Administrative Law  
For use of Office of Adm Law

FOR FILING ADMINISTRATIVE REGULATIONS  
WITH THE OFFICE OF ADMINISTRATIVE LAW  
CERTIFICATION: I hereby certify that the attached are true and correct copies of regulations adopted, amended or repealed by this agency and that the information specified on this Face Sheet is true and correct.

DEPARTMENT OF SOCIAL SERVICES

(AGENCY)

*Linda S. McHugh*  
AGENCY OFFICER WITH RULEMAKING AUTHORITY

Date: 4/9/87

FILED  
In the office of the Secretary of State  
of the State of California

MAY 12 1987

At 4:38 o'clock P.M.

MARCH FONG EU, Secretary of State

By *John Bates*  
Deputy Secretary of State

For use by Secretary of State only

1. AGENCY CONTACT PERSON FOR THIS FILING  
(See instructions) Rosalie Clark, Chief, Regulations Development Bureau  
TITLE  
TELEPHONE 445-0313
2. Type of filing, (check one) ☐ 30-day Review ☐ Emergency ☒ Certificate of Compliance  
☐ Regulatory changes resulting from Govt. Code 11349.7 review (Complete Part 6 below)  
☐ Nonsubstantive changes with nonregulatory effect ☐ Printing Error Correction  
(Complete Part 4 below)
3. a. Specify California Administrative Code title and sections as follows:  
Title \_\_\_\_\_  
SECTIONS ADOPTED: \_\_\_\_\_  
SECTIONS AMENDED: \_\_\_\_\_  
SECTIONS REPEALED: MPP Section 44-113.622(c)  
b. The following sections listed in 3a contain modifications to the text originally made available to the public: \_\_\_\_\_
4. CERTIFICATE OF COMPLIANCE (Government Code Section 11346.1(e): The above-named agency officer certifies that this agency complied with the provisions of Government Code Sections 11346.4-11346.8. (Check one)  
☐ prior to the emergency adoption  
☒ within 120 days of the effective date of the emergency adoption of the above-referenced regulations.
5. Is this filing a resubmittal of a previously disapproved or withdrawn regulation?  
☒ No ☐ Yes, if yes, give date(s) of prior submittal(s) to OAL: \_\_\_\_\_
6. Is the filing submitted to carry out amendments or repeals identified in the statement of review completion submitted as a result of the agency's review of regulations administered by it as of June 30, 1980?  
☒ No ☐ Yes, if yes, give date statement was submitted to OAL: \_\_\_\_\_
7. If these regulations required prior review and approval or concurrence by any of the following agencies, check appropriate box(es)  
☐ Fair Political Practices Commission (Include FPPC approval stamp) ☐ Building Standards Commission (Attach approval)  
☐ State Fire Marshall (Attach approval) ☐ Department of Finance (Attach properly signed Std. 399)  
☐ Other \_\_\_\_\_ (SPECIFY AGENCY)
8. a. PUBLICATION DATE OF NOTICE IN CALIFORNIA ADMINISTRATIVE NOTICE REGISTER  
12/26/86  
b. DATE OF FINAL AGENCY ACTION  
4/9/87  
c. DATES OF AVAILABILITY OF MODIFIED REGULATION(S) (GOVT. CODE SEC. 11346.8(c))
9. Effective date of regulatory changes: (See Government Code Section 11346.2 and instructions on reverse)  
a. ☐ Effective 30th day after filing with the Secretary of State.  
b. ☒ Effective upon filing with the Secretary of State.  
c. ☐ Effective on \_\_\_\_\_ as required or allowed by the following statute(s): \_\_\_\_\_  
d. ☐ Effective on \_\_\_\_\_ (Designate effective date earlier than 30 days after filing with the Secretary of State pursuant to Govt. Code Sect. 11346.2(d).)  
Attach request demonstrating good cause for early effective date. Request subject to OAL approval.  
e. ☐ Effective on \_\_\_\_\_ (Designate effective date later than the normal effective date for the type of order filed.)

## INSTRUCTIONS FOR STD 400

Completed Face Sheet for Filing Regulations with the Office of Administrative Law must be attached to the front of each of the seven copies of the regulations. Note that at least one Face Sheet must contain an original signature of the agency officer with rulemaking authority.

- Part 1. Provide the name and telephone number of the person who is authorized during the review period to answer questions regarding this regulatory filing. If different than person designated in certification box, attach order delegating authority for making decisions regarding these regulations.
- Part 2. Check the appropriate box. NOTE: Nonsubstantive changes are reviewed by and are subject to OAL approval.
- Part 3 a. Provide the Administrative Code Title in which the regulation will appear and list *section* number of each regulation to be amended, adopted or repealed. *When filing a Certificate of Compliance list the section number of each emergency regulation formally adopted after completion of the rulemaking procedures of the APA.* (Attach additional sheets if necessary.)
- b. Please list the section number of each regulation which includes modifications to the text to the regulations originally made available to the public pursuant to Government Code Section 11346.5(b), and adopted, amended or repealed as modified pursuant to Government Code Section 11346.8(c). The sections listed here must correspond to the sections which were made available for 15 days pursuant to Government Code Section 11346.8(c).
- Part 4. Check appropriate box as necessary to comply with the requirements of Government Code Section 11346.1(e).
- Part 5. Specify date(s) and file number(s) of each prior submittal of these regulatory changes which was withdrawn or disapproved.
- Part 6. OAL has a longer time period to review regulatory changes submitted to carry out amendments and repeals which are identified in the agency's Statement of Review Completion and which have been submitted as a result of the agency's review of regulations administered by it as of June 30, 1980. Therefore, these regulatory changes should be submitted in a separate filing from any other regulatory changes. If not submitted separately, regulations not resulting from the review and any material in the rulemaking file relating to them must be clearly identified.
- Part 7. Certain regulatory activities must be reviewed and approved by other state agencies prior to submittal to OAL. Regulations subject to prior approval include:
- Fire and panic safety regulations (Govt. Code Sec. 11342.3.).
  - Building standards as defined in Section 18909 of the Health and Safety Code (Govt. Code Sec. 11343).
  - Conflict of Interest regulations (Title 2 California Admin. Code Section 18750(i)).
- Note: Where regulations have a fiscal impact on state, local or federal government or result in reimbursable costs to local government or school districts the fiscal impact statement must be reviewed, approved and signed by the Department of Finance before the regulations will be accepted for filing by OAL. See Government Code Sections 11349.1, 11346.5(a)(6), and S.A.M. sections 6050-6057.
- Part 8 a. Provide the publication date of the Notice Register in which the notice of proposed action appeared.
- b. Provide the date on which the regulatory agency adopted the regulatory changes.
- c. If the regulations were modified subsequent to the hearing or written comment period, provide the dates during which the modified regulations were made available to the public. Note that period must be at least 15 days and must be completed prior to the date the agency adopts the modified text. All modifications must be clearly indicated.
- Part 9. Effective Dates — check one of the following:
- A regulation or order of repeal is effective 30 days after filing with the Secretary of State unless a different date is specified below.
  - An emergency order, Certificates of Compliance or nonsubstantive change is effective upon filing with the Secretary of State unless a later date is specified below.
  - If an effective date other than specified above is required or allowed by statute, provide the date and the statutory citations(s).
  - If an early effective date is being requested, please attach a letter specifying the date the regulation(s) should take effect and the reason for the early effective date. Requests are granted by OAL upon a showing of good cause.
  - If an effective date later than specified above is requested, provide the date.

### FILING REQUIREMENTS

The following material must be submitted when filing regulations with OAL:

- Seven (7) copies of the regulations. Note: Use underline and strikeout to indicate changes in an existing section. For adoption of a new section, underline new text. The repeal of an entire section may be indicated by placing a diagonal slash through the text to be repealed.
- A completed Face Sheet for filing regulations with the Office of Administrative Law, Form STD 400 attached to the front of each copy of the regulations, with at least one Face Sheet bearing an original signature.
- Complete rulemaking file, with index and sworn statement. (See Govt. Code Sec. 11347.3 for full list of rulemaking contents.)

DELEGATED AUTHORITY ORDER

I hereby authorize and designate Rosalie P. Clark, Chief, Regulations Development Bureau as the agency contact person who has authority to make decisions and answer questions regarding this regulation order.

A handwritten signature in cursive script, appearing to read "Linda S. McMahon".

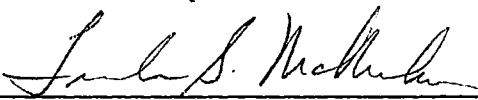
LINDA S. McMAHON  
Director

CERTIFICATE OF COMPLIANCE - Section 11346.1(e), Government Code

The Department of Social Services hereby certifies that it has complied with the provisions of Sections 11346.4 through 11346.8 inclusive of the Government Code, within 120 days of the effective date of the following emergency regulations which were filed with the Secretary of State on December 29, 1986, and which became effective on January 1, 1987.

Manual of Policies and Procedures, Division 44, Chapter 100, Section 44-113.622(c).

No Amendments or repealers resulted from the public hearing held on February 11, 1987.

  
\_\_\_\_\_  
LINDA S. McMAHON  
Director

4/9/87  
\_\_\_\_\_  
Date

Repeal Section 44-113.622(c) to read:

44-113 NET INCOME (Continued)

44-113

.6 Reconciliation of Advanced Earned Income Credit (EIC) to Year-End EIC. (Continued)

.62 Reconciliation Methodology (Continued)

.622 (Continued)

(c) Example:

- The year-end EIC payment is \$500.
- The wife worked for one month during the tax year and is not working when the payment is received.
- The husband received the 30 and 1/3 disregard for four months and is employed full-time earning \$600/month when the year-end EIC payment is received.
- Both the husband and the wife are members of the FRU when the year-end EIC payment is received.

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	WIFE	HUSBAND
Share of EIC *	\$250	\$250
Plus Other Earnings	<u>+ 0</u>	<u>+600</u>
Subtotal	\$250	\$850
Minus Standard Work Expense Disregard **	- 0	- 75
Minus Dependent Care Disregard (no expense)	- 0	- 0
Minus 30 and 1/3 Disregard ***	<u>-103</u>	<u>- 0</u>
Subtotal	\$147	\$775

Plus Unearned Income  
Net Nonexempt Income

$\frac{+}{-} 0$   
 $\frac{\$147}{\$775}$

Husband \$775  
Wife +147

\$922

Total net nonexempt  
income for use in the  
lump sum computation  
in Section 44-207.4

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- \* Year-end EIC is split between the husband and wife when both were earners in the tax year. If only one spouse worked during the tax year, the year-end EIC is attributable only to that earner.
- \*\* The standard work expense disregard is applied only when other earned income is received at the time EIC is received.
- \*\*\* The \$30~~4~~3 and, as applicable, the \$30 disregard is applied only if there is eligibility to the disregard when the EIC is received.

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Authority: Welfare and Institutions Code Sections 10553 and 10554.

Reference: 42 USC 602(a)(8)(A)(ii), 45 CFR 233.20(a)(11)(i)(B), and 45 CFR 233.20(a)(6)(IX).



## FACE SHEET

RDB #0986-45

87-0428-2C  
(See Instructions on Reverse)

SUBMITTED FOR REVIEW

APR 23 1987

OFFICE OF ADMINISTRATIVE LAW

ENDORSED  
APPROVED FOR FILING

MAY 13 1987

Office of Administrative Law

For use of Office of Adm Law

FOR FILING ADMINISTRATIVE REGULATIONS  
WITH THE OFFICE OF ADMINISTRATIVE LAW

CERTIFICATION: I hereby certify that the attached are true and correct copies of regulations adopted, amended or repealed by this agency and that the information specified on this Face Sheet is true and correct.

State Department of Social Services

(AGENCY)

*Paul S. McHugh*

AGENCY OFFICER WITH RULEMAKING AUTHORITY

Date: 4/24/87

FILED

In the office of the Secretary of State  
of the State of California

MAY 13 1987

At 4:35 o'clock P. M.

MARCH FONG EU, Secretary of State

By *John Bates*  
Deputy Secretary of State

For use by Secretary of State only

1. AGENCY CONTACT PERSON FOR THIS FILING (See instructions) Rosalie Clark TITLE Chief, Regulations Development Bureau TELEPHONE 445-0313

2. Type of filing, (check one) ☐ 30-day Review ☐ Emergency ☒ Certificate of Compliance (Complete Part 4 below)
- ☐ Regulatory changes resulting from Govt. Code 11349.7 review (Complete Part 6 below)
- ☐ Nonsubstantive changes with nonregulatory effect ☐ Printing Error Correction

3. a. Specify California Administrative Code title and sections as follows:

Title MPP

SECTIONS ADOPTED:

44-400 through 44-403

SECTIONS AMENDED:

40-107.1; 40-131.3; 40-181.1 and .122; 40-181.21; 44-340; 44-350.1

SECTIONS REPEALED:

- b. The following sections listed in 3a contain modifications to the text originally made available to the public: 40-107.1; 40-131.3;

40-181.1; 40-181.21; 44-340.1; 44-350.1; 44-400 through 44-403

4. CERTIFICATE OF COMPLIANCE (Government Code Section 11346.1(e): The above-named agency officer certifies that this agency complied with the provisions of Government Code Sections 11346.4-11346.8. (Check one)

- ☐ prior to the emergency adoption
- ☒ within 120 days of the effective date of the emergency adoption of the above-referenced regulations.

5. Is this filing a resubmittal of a previously disapproved or withdrawn regulation?

- ☒ No ☐ Yes, if yes, give date(s) of prior submittal(s) to OAL: \_\_\_\_\_

6. Is the filing submitted to carry out amendments or repeals identified in the statement of review completion submitted as a result of the agency's review of regulations administered by it as of June 30, 1980?

- ☒ No ☐ Yes, if yes, give date statement was submitted to OAL: \_\_\_\_\_

7. If these regulations required prior review and approval or concurrence by any of the following agencies, check appropriate box(es)

- ☐ Fair Political Practices Commission (Include FPPC approval stamp) ☐ Building Standards Commission (Attach approval)
- ☐ State Fire Marshall (Attach approval) ☒ Department of Finance (Attach properly signed Std. 399)
- ☐ Other \_\_\_\_\_ (SPECIFY AGENCY)

8. a. PUBLICATION DATE OF NOTICE IN CALIFORNIA ADMINISTRATIVE NOTICE REGISTER  
November 28, 1986

b. DATE OF FINAL AGENCY ACTION  
April 24, 1987

c. DATES OF AVAILABILITY OF MODIFIED REGULATION(S) (GOVT. CODE SEC. 11346.8(c))  
March 25, 1987 to April 9, 1987

9. Effective date of regulatory changes: (See Government Code Section 11346.2 and instructions on reverse)

- a. ☐ Effective 30th day after filing with the Secretary of State.
- b. ☒ Effective upon filing with the Secretary of State.
- c. ☐ Effective on \_\_\_\_\_ as required or allowed by the following statute(s): \_\_\_\_\_
- d. ☐ Effective on \_\_\_\_\_ (Designate effective date *earlier than* 30 days after filing with the Secretary of State pursuant to Govt. Code Sect. 11346.2(d).)  
Attach request demonstrating good cause for early effective date. Request subject to OAL approval.
- e. ☐ Effective on \_\_\_\_\_ (Designate effective date *later than* the normal effective date for the type of order filed.)

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  - c. Conflict of Interest regulations (Title 2 California Admin. Code Section 18750(i)).
- Note: Where regulations have a fiscal impact on state, local or federal government or result in reimbursable costs to local government or school districts the fiscal impact statement must be reviewed, approved and signed by the Department of Finance before the regulations will be accepted for filing by OAL. See Government Code Sections 11349.1, 11346.5(a)(6), and S.A.M. sections 6050-6057.
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- b. Provide the date on which the regulatory agency adopted the regulatory changes.
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### FILING REQUIREMENTS

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- *A completed Face Sheet for filing regulations with the Office of Administrative Law, Form STD 400* attached to the front of each copy of the regulations, with at least one Face Sheet bearing an original signature.
- *Complete rulemaking file, with index and sworn statement.* (See Govt. Code Sec. 11347.3 for full list of rulemaking contents.)



## CERTIFICATE OF COMPLIANCE - Section 11346.1(e), Government Code

The Department of Social Services hereby certifies that it has complied with the provisions of Sections 11346.4 through 11346.8 inclusive of the Government Code, within 120 days of the effective date of the following emergency regulations which were filed with the Secretary of State on December 5, 1986, and which became effective on January 1, 1987.

Manual of Policy and Procedures, Divisions 40 and 44, Chapters 40-100, 44-300, and 44-400, Sections:

<u>Amended</u>	<u>Adopted</u>	<u>Repealed</u>
40-107.1	44-400	None
40-131.3	44-401	
40-181.11	44-402	
40-181.122	44-403	
40-181.21		
44-340		
44-350.1		

These regulations were presented at public hearing on January 14, 1987. As a result of the public hearing the following sections have been changed.

<u>Amended</u>	<u>Adopted</u>	<u>Repealed</u>
40-107.1	None	None
40-131.3		
40-181.1		
40-181.21	40-181.2	
44-340.1		
44-350.1		
44-400	44-400.1, 400.2	
44-401		
44-402		
44-403		



LINDA S. McMAHON  
Director

4-24-87

Date

DELEGATED AUTHORITY ORDER

I hereby authorize and designate Rosalie P. Clark, Chief, Regulations Development Bureau as the agency contact person who has authority to make decisions and answer questions regarding this regulation order.

A handwritten signature in cursive script, appearing to read "Linda S. McMahon".

LINDA S. McMAHON  
Director

Amend MPP Section 40-107.1 to read:

40-107 COUNTY RESPONSIBILITY

40-107

.1 Assisting the Applicant (Continued)

- .13 The applicant shall be informed of the availability of ~~hardship~~ reduced income supplemental payments and of the necessity that an assistance unit request the payments in order for them to be provided. [HANDBOOK: (See Section 44-400 regarding ~~hardship~~ reduced income supplemental payments.)]

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 11450.2(a)(1), Welfare and Institutions Code.

Amend MPP Section 40-131.3 to read:

40-131 INTERVIEW REQUIREMENT (Continued)

40-131

•3 Content of Application Interview

The application interview shall include discussion of the following as pertinent: (Continued)

- o. The availability of a ~~hardship~~ reduced income supplemental payment and the necessity that an assistance unit request the payment in order for it to be provided. [HANDBOOK: (See Section 44-400 regarding ~~hardship~~ reduced income supplemental payments.)]

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 11450.2(a)(1), Welfare and Institutions Code.

Amend and renumber MPP Sections 40-181.11 and .122, and renumber Sections 40-181.12 through .18 to read:

40-181 CONTINUING ACTIVITIES AND DETERMINATION OF  
ELIGIBILITY

40-181

.1 General County Responsibility

- (a) The CWD paying aid shall be responsible for continuing to determine eligibility to insure payment only to eligible recipients in the correct amount, to assist recipients to meet their financial and service needs as fully as possible, and to make maximum use of their resources and capabilities. For AFDC-FG or U cases, eligibility shall be established by the use of the CA 2 at time of application and then at one year intervals, and also by the CA 7 (Monthly Eligibility Report).
- (b) The CWD shall send the Hardship Reduced Income Supplemental Payment Request Form, CA 40, monthly to all assistance units which have reported income and for two months following a termination of reported income.
- (c) For AFDC-FC cases, eligibility shall be established by use of the CA 2 at the time of application if the parent or legal guardian is available and cooperating. If the parent or legal guardian is unavailable or not cooperating, eligibility shall be established by use of the CA 2 or FC 2. AFDC-FC eligibility shall be reestablished by use of the CA 2 or FC 2 at six-month intervals.
- (d) Additional determinations shall be made as necessary if unexpected changes in income, property, or other circumstances occur which affect the eligibility or grant level of the recipient.
- (e) (Continued)
  - (1) (Continued)
  - (2) In AFDC, the monthly redetermination of eligibility shall follow the procedures described above. This requirement is met by the use of the CA 7. The CA 7 shall be carefully checked each month upon its receipt so that correct grant computations are made. Special care should be taken to correct grant adjustments for overpayments when income/resources change.

- (f) (Continued)
- (g) (Continued)
- (h) (Continued)
- (i) (Continued)
  - (1) (Continued)
  - (2) (Continued)
- (j) (Continued)
- (k) (Continued)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 11450.2(a)(1), Welfare and Institutions Code.

Amend MPP Section 40-181.21 to include new .213 and renumber current .213, .214, and .215 to read:

40-181 CONTINUING ACTIVITIES AND DETERMINATION OF 40-181  
ELIGIBILITY (Continued)

.2 Periodic Determination of Eligibility

.21 (Continued)

.213 Recipients of AFDC-FG/U shall be informed of the availability of ~~hardship~~ reduced income supplemental payments and of the necessity that an assistance unit request the payment in order for it to be provided.

.214 (Continued)

.215 (Continued)

.216 (Continued)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 11450.2(a)(1), Welfare and Institutions Code.

Amend MPP Section 44-340.1 to read:

44-340 UNDERPAYMENTS

44-340

.1 General (Continued)

- .154 A hardship reduced income supplemental payment which was correctly computed, based on the assistance unit's reasonable estimate of the income and other circumstances for the payment month, shall not be subject to an underpayment determination. If there is a computational error, the payment shall be corrected.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 11450.2(a)(6), Welfare and Institutions Code.



Amend Section 44-350.1 to read:

44-350 OVERPAYMENTS--GENERAL

44-350

.1 General (Continued)

- .15 A ~~hardship~~ reduced income supplemental payment which was correctly computed, based on the assistance unit's reasonable estimate of the income and other circumstances for the payment month, shall not be subject to an overpayment determination. If there is a computational error, the payment shall be corrected.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 11450.2(a)(6), Welfare and Institutions Code.

Amend MPP Section 44-400 to read:

44-400 HARDSHIP REDUCED INCOME SUPPLEMENTAL PAYMENTS

44-400

•1 Definitions

- (a) "Hardship Reduced Income Supplemental Payment" means a payment issued to help maintain an AFDC assistance unit during the time it takes for the assistance payment to reflect a change in income. Hardship Reduced income supplemental payments are made to assistance units who which experience a decrease or termination of reported income, as defined in MPP Section 44-402.22, which leaves the assistance unit needy as a result of the time lag inherent in the retrospective budgeting process. New or increased allowable disregard amounts in the reduced income supplemental payment month may result in eligibility for a reduced income supplemental payment.
- (b) "Hardship Reduced Income Supplemental Payment Month" means the month in which the hardship reduced income supplemental payment is requested and for which eligibility for the hardship reduced income supplemental payment exists.
- (c) "Net available income" means the actual income, including the retrospectively budgeted grant, available to the assistance unit for living expenses in the Hardship Reduced Income Supplemental Payment Month. See Section 44-402.2.

•2 General

HANDBOOK

- 21 There is no federal financial participation available for Hardship Reduced Income Supplemental Payments.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 11450.2, Welfare and Institutions Code.

Amend MPP Section 44-401 to read:

44-401 ELIGIBILITY FOR A HARDSHIP REDUCED INCOME  
SUPPLEMENTAL PAYMENT

44-401

- .1 An assistance unit shall not be eligible for a hardship reduced income supplemental payment if the assistance unit's total estimated net nonexempt income for the hardship reduced income supplemental payment month is the same as, or greater than, the total net nonexempt income budgeted from the corresponding budget month. [HANDBOOK: (See Section 44-113 for computation of net nonexempt income.)]
- ~~.11 An assistance unit shall not be eligible for a hardship supplemental payment if the drop in net nonexempt income results solely from ineligibility for disregards.~~
- .2 An assistance unit shall be eligible for a hardship reduced income supplemental payment if its estimated net nonexempt income for the hardship reduced income supplemental payment month is lower than its reported net nonexempt income in the corresponding budget month and if the following conditions are met:
  - .21 The assistance unit is eligible for AFDC in the hardship reduced income supplemental payment month or the assistance unit is in a month of suspension resulting from the receipt of income.
  - .22 The estimated net available income for the hardship reduced income supplemental payment month is less than 80 percent of the MAP for the assistance unit. [HANDBOOK: (See Section 44-402.2 regarding net available income.)]
  - .23 The assistance unit has requested the hardship reduced income supplemental payment in the same month in which eligibility for the hardship reduced income supplemental payment exists. The month in which eligibility exists is the hardship reduced income supplemental payment month.
    - .231 The assistance unit shall use the AFDC Hardship Reduced Income Supplemental Payment Request form (CA 40) to request the hardship reduced income supplemental payment.
    - .232 The date of receipt of the CA 40 shall be determined as follows:

- (a) If the recipient hand-delivers the CA 40 to the CWD, the date the CWD receives the request shall constitute the date the request is made.
- (b) If the CA 40 is mailed, the date of postmark shall constitute the date the request is made. When the postmark is illegible and the CWD receives a CA 40 for a hardship reduced income supplemental payment for the current month, the CWD shall presume, in the absence of other evidence, that such request was made during the current month if the CA 40 is dated in the current month. When the postmark is illegible and the CWD receives a CA 40 for the prior month, the CWD shall presume that the recipient made a request during the prior month if the CA 40 is received by the CWD by the second postal delivery day of the current month and the CA 40 is dated in the prior month.

40-157.233. Such a request shall provide the CWD with the following information:

- (a) All information necessary for the CWD to estimate the hardship reduced income supplemental payment month's income and circumstances, to the extent that the recipient is able to provide such information.
- (b) Adequate verification of the expected drop in income, if available to the recipient; if unavailable, the recipient shall authorize the CWD to obtain verification. Where verification is unobtainable, the CWD may accept the declaration in (c) below in lieu of verification. [HANDBOOK: (See Section 40-157.2 for more detail on procedures for gathering evidence.)]
- (c) A declaration under penalty of perjury that, to the best of the recipient's knowledge, the information provided is true and correct. The Hardship Reduced Income Supplemental Payment Request form (CA 40) shall be sufficient for this purpose.

new text

- .3 Eligibility for a hardship reduced income supplemental payment shall be determined for each request.
- .4 No more than one hardship reduced income supplemental payment per month may be granted to an assistance unit even if the actual net available income is lower than estimated. However, if there is an error in the computation of the net available income, the hardship reduced income supplemental payment shall be corrected.
- .5 If a hardship reduced income supplemental payment is granted in a suspense month because of a significant drop in the family's income, aid payments for the two months following the suspension shall be computed using prospective budgeting. [Handbook: (See Section 44-315.63)]

HANDBOOK

- .51 In these circumstances, a hardship reduced income supplemental payment would not be made in the month following the suspension.
- .6 No hardship reduced income supplemental payment shall be made to any assistance unit when such payment would be counted as income under the federal AFDC program.
- .7 The needs of any person who has been excluded from the assistance unit shall not be considered when computing the hardship reduced income supplemental payment for the remaining eligible members of the assistance unit. [HANDBOOK: For example, see MPP Section 43-107.47].

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 11450.2, 11450.2(a)(6), and 11450.2(b)(3) Welfare and Institutions Code; and CFR 233.20(b)(4).

Amend MPP Section 44-402 to read:

44-402 COMPUTATION OF A HARDSHIP REDUCED INCOME  
SUPPLEMENTAL PAYMENT

44-402

- .1 A hardship reduced income supplemental payment shall equal the difference between 80 percent of the MAP level minus the assistance unit's net available income estimated for the hardship reduced income supplemental payment month.

H A N D B O O K	80% of MAP Level: <u>July 1, 1986 through June 30, 1987</u>	
	Size of AU	80% of Maximum Aid Payment
	1	\$242
	2	398
	3	494
	4	587
	5	670
	6	753
	7	826
	8	901
	9	972
	10 or more	1045

- .11 When the subtraction of the net available income from 80 percent of the MAP level results in zero or less than zero, there shall be no hardship reduced income supplemental payment.

- .2 Net available income is determined by adding the retrospectively budgeted grant amount determined as described in Section 44-402.21 to the amount estimated other available income, as described in Section 44-402.22.

- .21 The total grant amount, in accordance with Section 44-315.43, retrospectively budgeted from the budget month to the payment month, that the assistance unit would otherwise receive with the following exceptions:

- .211 Any disregard amounts the assistance unit would have been eligible to receive had the assistance unit not late reported shall be used in computing the grant for the hardship reduced income supplemental payment month.

.212 Any disregard amounts the assistance unit would have been eligible to receive had the assistance unit not lost its disregard(s) due to job quit without good cause shall be used when computing the grant for the reduced income supplemental payment. [Handbook: (See Section 44-111.23(e).)]

.2123 Special needs shall not be considered part of the grant amount for the payment month. This includes recurring special needs, nonrecurring special needs and the pregnancy special need payment.

.2134 The amount that would otherwise be adjusted to recover an overpayment shall not be adjusted when computing the amount for the payment month. [Handbook: Note: Any overpayment recoupment that was based on retrospectively budgeted income that is not available in the payment month shall be corrected in accordance with MOP Section 44-352.4.]

.22 The total net nonexempt income estimated to be available to the existing assistance unit in the hardship reduced income supplemental payment month in accordance with the income definitions in Chapter 44-100. The following disregards are not allowed:

.221 The \$30 and 1/3 disregard. [Handbook: (See Section 44-111.23.)]

.222 The \$30 disregard. [Handbook: (See Section 44-111.234.)]

.223 The amount disregarded from direct child/spousal support, disregard, payments received by the recipient (see Section 44-111.472) and/or the child/spousal support disregard payments received from the CWD in the hardship supplemental payment month. [Handbook: This includes the amount disregarded from direct child/spousal support payments received by the recipient and/or the child/spousal support disregard payments received from the CWD in the reduced income supplemental payment month. (See Section 44-111.471.)]

.3 The ten dollar (\$10) payment limit specified in Section 44-315.432 shall not apply to the hardship reduced income supplemental payments.

.4 Liquid resources and underpayment adjustments for prior months shall not be considered net available income.

.5 A hardship reduced income supplemental payment shall not be considered income when calculating the amount of the grant to be paid in future months.

.6 No overpayment or underpayment shall be assessed against a hardship reduced income supplemental payment which was correctly computed based on the assistance unit's reasonable estimate of expected income and other circumstances for the hardship reduced income supplemental payment month.

.7 Example of Hardship Reduced Income Supplemental Payment Issuance:

A. FACTS

(1) Assistance Unit is comprised of a working mother and one child.

(2) January grant is \$188.

(3) Mother receives notice that her hours of employment are reduced effective December 31 of the preceding year.

(4) Mother was receiving \$500 a month in wages, and will be receiving \$200.

(5) Mother has no reasonable expectations of receiving additional earned (or unearned) income in January.

(6) Mother is no longer eligible for \$30 and 1/3, but does qualify for the \$30 disregard.

(7) Mother pays \$85 in child care.

(8) Mother receives \$50 per month payment from the county welfare department for child support received by the county welfare department.

(9) CWD receives recipient's Hardship Reduced Income Supplemental Payment Request Form on January 8.

B. CWD ACTION

(1) CWD determines that CA 40 is complete.



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K

(2) CWD determines the CA 7 due in December, reporting November's income, was timely and complete.

(3) CWD determines that there is a decrease in net nonexempt earned (net countable) income from November to January.

(4) CWD computes net available income for the hardship reduced income supplemental payment month:

(a) The total grant that the family would otherwise receive in the hardship reduced income supplemental payment month is \$188.

(b) \$200 estimated wages for the hardship reduced income supplemental payment month.  
- 75 standard work expense disregard  
- 85 dependent care disregard  
+ 50 child support disregard received in hardship reduced income supplemental payment month  
\$ 90 estimated other available income  
for the hardship reduced income supplemental payment month.

(c) \$188 from (a) plus \$90 from (b) equals \$278 net available income for the hardship reduced income supplemental payment month.

(d) The computation would appear on the CA 40 as follows:

NET COUNTABLE INCOME

\$200 wages for January  
- 75 work expense disregard  
- 85 dependent care disregard  
- 30 \$30 disregard  
\$ 10 net countable income in January

NET AVAILABLE INCOME

\$188 aid in January  
+ 10 net countable income  
+ 50 support disregard received in January  
+ 30 \$30 disregard  
\$278 net available income in January

(5) CWD computes hardship reduced income supplemental payment.

H  
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K

(a) MAP for assistance unit is \$498

(b) 80% of MAP is \$398

(c) 80% of MAP is greater than the net available income (\$398 > \$278)

(d) Hardship Reduced Income Supplemental  
Payment = 80% of MAP less net available income, or

\$398

-278

\$120

Hardship Reduced Income  
Supplemental Payment

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 11257, 11450.2(a)(2), 11450.2(a)(3), 11450.2(a)(6), 11450.2(b)(2), 11450.2(b)(2)(A), 11450.2(b)(2)(C), and 11450.2(b)(4), Welfare and Institutions Code.

new text

Amend MPP Section 44-403 to read:

44-403 CWD RESPONSIBILITIES

44-403

- .1 The CWD shall send the CA 40, AFDC Hardship Reduced Income Supplemental Payment Request, to assistance units when one of the following circumstances occurs:

- .11 The CA 40 shall be given to any assistance unit which has reported income verbally or in writing. The CA 40 shall be sent monthly to all assistance units which have reported income on the Monthly Eligibility Report and for two months following the month in which the income drops stops.

- .12 The CA 40 shall be given to any recipient upon the recipient's request.

- .13 The CA 40 shall be given to any recipient indicating a loss of income. However, if the CWD has already provided the assistance unit with the CA 40 for the month based on income reported on the Monthly Eligibility Report, the CWD is not required to send the recipient another CA 40, unless the recipient so requests.

- .2 The CWD may send the CA 40 to all assistance units.

**HANDBOOK**

- .3 The CWD shall inform the recipient that receipt by the CWD of the properly completed CA 40 is necessary before eligibility for a hardship reduced income supplemental payment can be determined and such payment can be issued pursuant to this Chapter.

- .4 If the CWD receives an incomplete CA 40 the CWD shall contact the recipient as soon as possible in order to obtain the necessary information and/or verification. The CWD shall employ the principles and methods specified in Section 40-157 in verifying eligibility for a hardship reduced income supplemental payment and afford the recipient the protections specified in Section 19-007.1.

- .5 The CWD shall deny the application for a hardship reduced income supplemental payment if the application provided by the assistance unit is incomplete to the extent that the CWD cannot make an eligibility determination and the CWD's effort to obtain the information is unsuccessful.

- .6 The CWD shall issue a hardship reduced income supplemental payment within seven working days ~~from~~ after the date the request was received if the assistance unit is determined to be eligible for the hardship reduced income supplemental payment. The CWD shall issue a Notice of Action denying a hardship reduced income supplemental payment within seven working days of the date the CWD receives the request if the assistance unit is determined to be ineligible for a hardship reduced income supplemental payment. The day the CA 40 is received by the CWD is the date of receipt; the day following the date of receipt is the first day of the seven-day processing period.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 11450.2(a)(1) and 11450.2(a)(4), Welfare and Institutions Code; Melendez v. McMahon, Sacramento County Superior Court Number 331567; Section 12, Code of Civil Procedure.

FACE SHEET

FOR FILING ADMINISTRATIVE REGULATIONS  
WITH THE OFFICE OF ADMINISTRATIVE LAW  
CERTIFICATION: I hereby certify that the attached are true and correct copies of regulations adopted, amended or repealed by this agency and that the information specified on this Face Sheet is true and correct.

SUBMITTED FOR REVIEW

APR 20 1987

OFFICE OF ADMINISTRATIVE LAW

ENDORSED  
APPROVED FOR FILING

MAY 26 1987

Office of Administrative Law  
For use of Office of Adm Law

Department of Social Services

(AGENCY)

*James S. McHugh*  
AGENCY OFFICER WITH RULEMAKING AUTHORITY

Date: 4-24-87

FILED

In the office of the Secretary of State  
of the State of California

MAY 26 1987

At 4:49 o'clock P. M.

MARCH FONG EU, Secretary of State

By *John Bate*  
Deputy Secretary of State

For use by Secretary of State only

1. AGENCY CONTACT PERSON FOR THIS FILING (See instructions) TITLE TELEPHONE  
Rosalie Clark, Chief, Regulations Development Bureau, 445-0313
2. Type of filing, (check one) ☐ 30-day Review ☐ Emergency ☒ Certificate of Compliance (Complete Part 4 below)  
☐ Regulatory changes resulting from Govt. Code 11349.7 review (Complete Part 6 below)  
☐ Nonsubstantive changes with nonregulatory effect ☐ Printing Error Correction
3. a. Specify California Administrative Code title and sections as follows:  
Title MPP  
SECTIONS ADOPTED:  
SECTIONS AMENDED:  
Sections 42-213.1; 44-111.454; 44-207.4; 44-350.1&.2; 44-352.2, .3&.4.  
SECTIONS REPEALED:  
b. The following sections listed in 3a contain modifications to the text originally made available to the public: 42-213.124;  
44-111.454; 44-207.443; 44-207.46, 461&.462; 44-350.141; 44-352.441.
4. CERTIFICATE OF COMPLIANCE (Government Code Section 11346.1(e): The above-named agency officer certifies that this agency complied with the provisions of Government Code Sections 11346.4-11346.8. (Check one)  
☐ prior to the emergency adoption  
☒ within 120 days of the effective date of the emergency adoption of the above-referenced regulations.
5. Is this filing a resubmittal of a previously disapproved or withdrawn regulation?  
☒ No ☐ Yes, if yes, give date(s) of prior submittal(s) to OAL: \_\_\_\_\_
6. Is the filing submitted to carry out amendments or repeals identified in the statement of review completion submitted as a result of the agency's review of regulations administered by it as of June 30, 1980?  
☒ No ☐ Yes, if yes, give date statement was submitted to OAL: \_\_\_\_\_
7. If these regulations required prior review and approval or concurrence by any of the following agencies, check appropriate box(es)  
☐ Fair Political Practices Commission (Include FPPC approval stamp) ☐ Building Standards Commission (Attach approval)  
☐ State Fire Marshall (Attach approval) ☒ Department of Finance (Attach properly signed Std. 399)  
☐ Other \_\_\_\_\_ (SPECIFY AGENCY)
8. a. PUBLICATION DATE OF NOTICE IN CALIFORNIA ADMINISTRATIVE NOTICE REGISTER January 23, 1987  
b. DATE OF FINAL AGENCY ACTION April 24, 1987  
c. DATES OF AVAILABILITY OF MODIFIED REGULATION(S) (GOVT. CODE SEC. 11346.8(c)) March 30, 1987 through April 17, 1987
9. Effective date of regulatory changes: (See Government Code Section 11346.2 and instructions on reverse)  
a. ☒ Effective 30th day after filing with the Secretary of State.  
b. ☒ Effective upon filing with the Secretary of State.  
c. ☐ Effective on \_\_\_\_\_ as required or allowed by the following statute(s): \_\_\_\_\_  
d. ☐ Effective on \_\_\_\_\_ (Designate effective date earlier than 30 days after filing with the Secretary of State pursuant to Govt. Code Sect. 11346.2(d).)  
Attach request demonstrating good cause for early effective date. Request subject to OAL approval.  
e. ☐ Effective on \_\_\_\_\_ (Designate effective date later than the normal effective date for the type of order filed.)

## INSTRUCTIONS FOR STD 400

Completed Face Sheet for Filing Regulations with the Office of Administrative Law must be attached to the front of each of the seven copies of the regulations. Note that at least one Face Sheet must contain an original signature of the agency officer with rulemaking authority.

- Part 1. Provide the name and telephone number of the person who is authorized during the review period to answer questions regarding this regulatory filing. If different than person designated in certification box, attach order delegating authority for making decisions regarding these regulations.
- Part 2. Check the appropriate box. NOTE: Nonsubstantive changes are reviewed by and are subject to OAL approval.
- Part 3 a. Provide the Administrative Code Title in which the regulation will appear and list *section* number of each regulation to be amended, adopted or repealed. *When filing a Certificate of Compliance list the section number of each emergency regulation formally adopted after completion of the rulemaking procedures of the APA.* (Attach additional sheets if necessary.)
- b. Please list the section number of each regulation which includes modifications to the text to the regulations originally made available to the public pursuant to Government Code Section 11346.5(b), and adopted, amended or repealed as modified pursuant to Government Code Section 11346.8(c). The sections listed here must correspond to the sections which were made available for 15 days pursuant to Government Code Section 11346.8(c).
- Part 4. Check appropriate box as necessary to comply with the requirements of Government Code Section 11346.1(e).
- Part 5. Specify date(s) and file number(s) of each prior submittal of these regulatory changes which was withdrawn or disapproved.
- Part 6. OAL has a longer time period to review regulatory changes submitted to carry out amendments and repeals which are identified in the agency's Statement of Review Completion and which have been submitted as a result of the agency's review of regulations administered by it as of June 30, 1980. Therefore, these regulatory changes should be submitted in a separate filing from any other regulatory changes. If not submitted separately, regulations not resulting from the review and any material in the rulemaking file relating to them must be clearly identified.
- Part 7. Certain regulatory activities must be reviewed and approved by other state agencies prior to submittal to OAL. Regulations subject to prior approval include:
- a. Fire and panic safety regulations (Govt. Code Sec. 11342.3.).
  - b. Building standards as defined in Section 18909 of the Health and Safety Code (Govt. Code Sec. 11343).
  - c. Conflict of Interest regulations (Title 2 California Admin. Code Section 18750(i)).
- Note: Where regulations have a fiscal impact on state, local or federal government or result in reimbursable costs to local government or school districts the fiscal impact statement must be reviewed, approved and signed by the Department of Finance before the regulations will be accepted for filing by OAL. See Government Code Sections 11349.1, 11346.5(a)(6), and S.A.M. sections 6050-6057.
- Part 8 a. Provide the publication date of the Notice Register in which the notice of proposed action appeared.
- b. Provide the date on which the regulatory agency adopted the regulatory changes.
- c. If the regulations were modified subsequent to the hearing or written comment period, provide the dates during which the modified regulations were made available to the public. Note that period must be at least 15 days and must be completed prior to the date the agency adopts the modified text. All modifications must be clearly indicated.
- Part 9. Effective Dates — check one of the following:
- a. A regulation or order of repeal is effective 30 days after filing with the Secretary of State unless a different date is specified below.
  - b. An emergency order, Certificates of Compliance or nonsubstantive change is effective upon filing with the Secretary of State unless a later date is specified below.
  - c. If an effective date other than specified above is required or allowed by statute, provide the date and the statutory citations(s).
  - d. If an early effective date is being requested, please attach a letter specifying the date the regulation(s) should take effect and the reason for the early effective date. Requests are granted by OAL upon a showing of good cause.
  - e. If an effective date later than specified above is requested, provide the date.


### FILING REQUIREMENTS

The following material must be submitted when filing regulations with OAL:

- *Seven (7) copies of the regulations.* Note: Use underline and strikeout to indicate changes in an existing section. For adoption of a new section, underline new text. The repeal of an entire section may be indicated by placing a diagonal slash through the text to be repealed.
- *A completed Face Sheet for filing regulations with the Office of Administrative Law, Form STD 400* attached to the front of each copy of the regulations, with at least one Face Sheet bearing an original signature.
- *Complete rulemaking file, with index and sworn statement.* (See Govt. Code Sec. 11347.3 for full list of rulemaking contents.)

DELEGATED AUTHORITY ORDER

I hereby authorize and designate Rosalie P. Clark, Chief, Regulations Development Bureau as the agency contact person who has authority to make decisions and answer questions regarding this regulation order.

A handwritten signature in cursive script, appearing to read "Linda S. McMahon".

LINDA S. McMAHON  
Director

## CERTIFICATE OF COMPLIANCE - Section 11346.1(e), Government Code

The Department of Social Services hereby certifies that it has complied with the provisions of Sections 11346.4 through 11346.8 inclusive of the Government Code, within 120 days of the effective date of the following emergency regulations which were filed with the Secretary of State on December 29, 1986, and which became effective on January 1, 1987.

Manual of Policy and Procedures, Divisions 42 and 44, Sections:

<u>Amended</u>	<u>Adopted</u>	<u>Repealed</u>
42-213.1		
44-111.454		
44-207.4		
44-350.1		
44-350.2		
44-352.2		
44-352.3		
44-352.4		

These regulations were presented at public hearing on March 9, 1987. As a result of the public hearing the following sections have been changed.

<u>Amended</u>	<u>Adopted</u>	<u>Repealed</u>
44-111.454		
44-207.443		
44-207.46, .461, and .462		
44-350.141		
44-352.441		



LINDA S. McMAHON  
Director

4-24-87

Date



## UPDATED INFORMATIVE DIGEST

CHAPTERS: 42-213, Property Items to Be Excluded in Evaluating Property Which May Be Retained; 42-111, Payments Excluded or Exempt from Consideration as Income; 44-207, Income Eligibility; 44-350, Overpayments - General; and 44-352, Methods of Overpayment Recovery.

INFORMATIVE DIGEST: These proposed regulations would implement, interpret, or make specific the provisions of Assembly Bill (AB) 3741, Chapter 1402, of the Statutes of 1986. AB 3741 amended Welfare and Institutions Code Sections 11004, 11008.18, 11157, and 11257.5 and provided the authority for the State Department of Social Services (SDSS) to implement the following four state options under the Federal Deficit Reduction Act of 1984 (DEFRA): 1) for retaining real property for nine months if the family is making a good faith effort to sell the property; 2) for disregarding from consideration as income or resources the value of any support and maintenance provided in kind by a private nonprofit organization; 3) for waiving the recoupment of nonfraudulent overpayments less than \$35 from any former Aid to Families with Dependent Children (AFDC) recipients. When the nonfraudulent overpayments total \$35 or more, the county shall waive collection after reasonable, cost-effective efforts have been made to collect the overpayment; and 4) for shortening the lump sum period of ineligibility when the standard of need increases and the amount the family would have received also changes, the lump sum income or a portion thereof becomes unavailable to the family for a reason beyond the control of the family, or the family incurs and pays for medical expenses. Existing state regulations must be amended or established to implement the four state options.

Existing regulations in Sections 42-213.12, .121(b), .124(b)(1), and .125 provide a six-month time period within which real property may be exempt from consideration as a resource if the family is making a good-faith effort to sell the property. These existing regulations would be amended to change from six months to nine months the time period within which real property may be exempt from consideration as a resource if the family is making a good-faith effort to sell the property. Section 44-111.454 would be adopted to exempt as income any in-kind income provided by a private nonprofit organization and further defines private nonprofit organization to include religious, charitable, educational, or other organizations described in Section 501(c) of the Internal Revenue Code of 1954. Existing regulations

define when the lump-sum period of ineligibility may be shortened. Section 44-207.44 would be amended to broaden and redefine when the lump-sum period of ineligibility may be shortened and specify that county welfare department (CWD) actions must be consistent with general AFDC program principles of gathering evidence when verification of expenditures are requested. Section 44-207.46 would be amended to specify the two different calculations to be used when computing the lump-sum period of ineligibility. Existing state regulations require the CWD to take action to recoup all nonfraudulent overpayments from former recipients. The proposed regulations would amend Section 44-350.14 by establishing the requirement that the county shall not demand collection of nonfraudulent overpayments totaling less than \$35 from individuals no longer receiving aid. When the nonfraudulent overpayments amount owed by an individual no longer receiving aid is \$35 or more, the county shall send a demand notice for the repayment and no further collection efforts would be continued unless the county determines that the cost to collect the overpayment does not exceed the amount to be recovered. This section further requires the county to maintain information regarding the uncollected overpayments in case the individual again becomes a recipient. Existing regulations do not define "nonfraudulent overpayments." The proposed regulations would add Section 44-350.2 to define nonfraudulent overpayments as an overpayment which is not determined to be fraudulent pursuant to MPP 20-003.1. As previously stated, existing regulations require the recoupment of all nonfraudulent overpayments from former recipients. The proposed regulations would amend Section 44-352.2 to specify that the collection of nonfraudulent overpayments of less the \$35 owed by individuals no longer receiving aid are not demanded and the collection efforts for nonfraudulent overpayments of \$35 or more owed by individuals no longer receiving aid would be reduced if the county determines that the amount to be recovered exceeds reasonable administrative costs for recovery. Sections 44-352.3 and 44-352.44 would be amended to provide cross-references to the recoupment exemptions established in Section 44-352.2.

## FINAL STATEMENT OF REASONS

a) Description of the Public Problem, Administrative Requirement, or Other Condition or Circumstance the Regulations Are Intended to Address

Chapter 1402, Statutes of 1986 (AB 3741) amended Welfare and Institutions Code Sections 11004, 11008.18, 11157, and 11257.5. This provided the authority to implement four state options under the Federal Deficit Reduction Act of 1984 (DEFRA): 1) for retaining real property for nine months if the family is making a good faith effort to sell the property; 2) for disregarding from consideration as income or resources the value of any support and maintenance provided in kind by a private nonprofit organization; 3) for waiving the recoupment of nonfraudulent overpayments under \$35 from any former Aid to Families with Dependent Children (AFDC) recipients. When the nonfraudulent overpayments total \$35 or more, the county shall waive collection after reasonable, cost-effective efforts have been made to collect the overpayment; and 4) for shortening the lump sum period of ineligibility when the standard of need increases and the amount the family would have received also changes, the lump sum income or a portion thereof becomes unavailable to the family for a reason beyond the control of the family, or the family incurs and pays for medical expenses. Regulations are needed to implement these law changes.

b) Specific Purpose of the Regulations and Factual Basis for Determination that Regulations Are Necessary

Sections 42-213.12, .121(b), .124, .124(b)(1), and .125

Specific Purpose:

These sections are amended in order to specify that real property may be exempt from consideration as resources for a period of no more than nine consecutive months if a family is making a good faith effort to sell the property. In addition, Section 42-213.12 provides that any family whose real property is exempt for a six-month period as of December 31, 1986 or after, may have the period extended to nine months by request.

Factual Basis:

Federal regulations permit states to optionally extend the time period up to nine months when the family is making a good faith effort to sell the real property. Current regulations exempt the real property for a period of no more than six consecutive months when the family is making a good faith effort to sell the property. Also, families whose property is exempt for a six-month period as of December 31, 1986 or after, need to request that the period be extended to nine months. The request is needed because the family will have already granted the county a lien on the property which is limited to aid paid for six months. It will be necessary to revise the lien if the family wishes additional months of aid. Since the lien is, in effect, a contractual agreement, the Department cannot unilaterally extend it for an additional three months. These proposed amendments are necessary in order to implement the state's mandate to exercise the federal option pursuant to Welfare and Institutions Code Section 11257.5 as amended by Chapter 1402, Statutes of 1986 (AB 3741).

#### Section 44-111.454

##### Specific Purpose:

This section is being adopted in order to establish that any income in kind provided by a private nonprofit organization, whether a full or partial item of need, is exempt as income. This section further defines private nonprofit organization as religious, charitable, educational, or other organizations such as described in Section 501(c) of the Internal Revenue Code of 1954. Actual tax exempt certification by IRS is not necessary. An exception to this definition has been made in order to comply with the Refugee Resettlement Program regulations that require any Voluntary Resettlement Agency (VOLAG) assistance provided in kind be considered in the determination of eligibility for the Refugee Demonstration Project (RDP) or Refugee Cash Assistance (RCA) program.

##### Factual Basis:

This section is necessary in order to implement the federal regulations which permit states to optionally disregard as income and resources any income in kind provided by a private nonprofit organization. Chapter 1402, Statutes of 1986 (AB 3741) mandated this option pursuant to Welfare and Institutions Code Section 11008.18. The exception to this rule for refugee programs is made necessary because under current regulations, the refugee programs incorporate the AFDC income regulations. The VOLAGs are under a duty to assist their sponsored refugees and it would be contrary to

that duty to exempt all VOLAG's in kind contributions which cover a full item of need.

#### Section 44-207.44

##### Specific Purpose:

This section is amended to redefine when the lump sum period of ineligibility may be shortened. This section establishes that the lump sum period of ineligibility may be recalculated when one or more of these situations occur: 1) the standard of need increases and the amount the family would have received also changes; 2) the lump sum income or a portion thereof becomes unavailable to the family for a reason beyond the control of the family; or 3) the family incurs and pays for medical expenses. Also, in the case of situations involving the unavailability of the lump sum income, a definition of unavailability is provided. An example of a situation where the ineligible family would be eligible for a special need item but the expense of the need item is more than the specified amount is provided as handbook to insure consistent interpretation.

##### Factual Basis:

Current regulations provide that the lump sum period of ineligibility may be shortened when the lump sum is used to 1) meet needs that result from a sudden and unusual circumstance of a life threatening nature beyond the control of the ineligible family or 2) for emergency medical expenses. This section is necessary in order to implement the federal regulation which permit states optionally to provide three different situations to shorten the lump sum period of ineligibility. Also, for cases involving the unavailability of the lump sum income, a definition of unavailability has been provided as required by federal regulations. The proposed regulations will broaden the definition of when the lump sum period of ineligibility may be recalculated. Chapter 1402, Statutes of 1986 (AB 3741) mandated the three options pursuant to Welfare and Institutions Code Section 11157.

#### Section 44-207.45

##### Specific Purpose:

This section is amended to further clarify that the county must be consistent with the general AFDC program principles of gathering evidence when verification of expenditures are requested.

Factual Basis:

Section 44-207.45 is necessary in order to ensure that counties are consistent in the application of the general AFDC program principles of gathering evidence as specified in Sections 40-157.2 and .3 when verification of expenditures are requested.

Section 44-207.46

Specific Purpose:

This section is amended in order to clearly specify that there are two different calculations when recomputing the lump sum period of ineligibility. The first computation is used when there is an increase in the standard of need and the amount the family would have received also changes. The second computation is used when the lump sum income becomes unavailable to the family for reasons beyond the control of the family or the family incurs and pays for medical expenses. This section specifies the step by step procedure for calculating the lump sum period of ineligibility.

Factual Basis:

See Factual Basis for Section 44-207.44.

Section 44-350.14

Specific Purpose:

This section is amended in order to establish the requirement that the county shall not demand collection of nonfraudulent overpayments totaling \$35 from individuals no longer receiving aid. When the nonfraudulent overpayments amount owed by an individual no longer receiving aid is \$35 or more, the county shall send a demand notice for the repayment and no further collection efforts would be continued unless the county determines that the cost to collect the overpayment does not exceed the amount to be recovered. This section further requires the county to maintain information regarding the uncollected overpayment in order for future collection when the individual resumes receiving AFDC.

Examples of overall administrative costs which counties should consider in their evaluation of cost effectiveness have been provided.

Factual Basis:

Current regulations require the recoupment of all nonfraudulent overpayments from former recipients. Federal regulations permit states to optionally 1) waive the recoupment of nonfraudulent overpayment totaling less than \$35 from former recipients; or 2) in cases where the individual is no longer receiving aid and the nonfraudulent overpayments are \$35 or more, the county must send the former recipient a demand notice for repayment and waive the recoupment of the overpayment when the amount to be recovered exceeds reasonable administrative costs for recovery. This proposed amendment is necessary in order to implement the state's mandate to exercise the federal option pursuant to Welfare and Institutions Code Section 11004 as amended by Chapter 1402, Statutes of 1986 (AB 3741).

#### Section 44-350.2

##### Specific Purpose:

This section is being adopted to define the term nonfraudulent overpayment to insure standardization of the definition.

##### Factual Basis:

See Factual Basis for Section 44-350.14.

#### Section 44-352.2

##### Specific Purpose:

This section is being amended in order to clarify that the collection of nonfraudulent overpayments of less than \$35 owed by individuals no longer receiving aid are not demanded and the collection of nonfraudulent overpayments of \$35 or more owed by individuals no longer receiving aid are waived if the county determines that the amount to be recovered exceeds reasonable administrative costs for recovery.

##### Factual Basis:

See Factual Basis for Section 44-350.14.

#### Section 44-352.3

##### Specific Purpose:

This section is amended in order to establish the requirement that the county shall not demand collection of nonfraudulent overpayments totaling less than \$35 from individuals no

longer receiving aid and when the nonfraudulent overpayment is \$35 or more, the county shall send a demand notice for the repayment and no further collection efforts would be continued unless the county determines that the cost to collect the overpayment does not exceed the amount to be recovered.

Factual Basis:

See Factual Basis for Section 44-350.14.

Section 44-352.44

Specific Purpose:

This section is amended in order to establish the requirement that the county shall not refer nonfraudulent overpayment cases for civil judgment when nonfraudulent overpayments owed by individuals not longer receiving aid totals less than \$35 and when the county determines that it is not cost effective to collect nonfraudulent overpayments owed by individuals no longer receiving aid amounting to \$35 or more.

Factual Basis:

See Factual Basis for Section 44-350.14.

c) Identification of Documents Upon Which Department Is Relying

Federal Deficit Reduction Act of 1984 (DEFRA) Public Law 98-369

45 CFR 233.53  
45 CFR 233.20(a)(3)  
45 CFR 233.20(a)(3)(ii)(F)  
45 CFR 233.20(a)(13)(i) and (vi)

Chapter 1402, Statutes of 1986 (AB 3741)

Welfare and Institutions Code Section 11004  
Welfare and Institutions Code Section 11008.18  
Welfare and Institutions Code Section 11157  
Welfare and Institutions Code Section 11257.5

d) Testimony Summary and Response

The Federal Deficit Reduction Act of 1984 (DEFRA) - State Options regulations were considered at a public hearing on March 9, 1987. No oral testimony was presented at the hearing. The Department received written testimony from two



county welfare departments (CWDs) and the Western Center on Law and Poverty, Northern California Office. The Department's responses to these comments follow.

Section 42-213.12

Comment:

The Western Center on Law and Poverty submitted the following comment:

"Proposed MPP 42-213.12 provides for an extension of the period of AFDC eligibility for families who are making a good faith effort to dispose of the property from six to nine months only 'at the recipient's request.' There is nothing in the statutory provisions authorizing a requirement that a separate request be made at the end of six months in order to receive an additional three-month extension. The family should be considered continually eligible for the nine-month period if it meets the appropriate criteria. The proposed regulation does not even provide a mechanism for informing the family of the expiration of the six-month period and the necessity of requesting an additional three months of eligibility after six months, omitting any notice of expiration and right to request an extension is not only contrary to the statute, but also to constitutional rights of due process. Our preference, however, is simply to change the six-month period to nine months with no obligation to 'request' an extension."

Response:

The Department did not concur with the comment from the Western Center on Law and Poverty. The "request" for the three-month extension is needed because the family will have already granted the county a lien on the property which is limited to aid paid for six months as required in Section 42-213.12. It will be necessary to revise the lien if the family wishes additional months of aid. Since the lien is, in effect, a contractual agreement, the Department cannot unilaterally extend it for an additional three months.

The Department has instructed the counties via All-County Letter 86-138, dated December 30, 1986, to extend the exemption for three months if the six-month exemption expires on or after December 31, 1986, assuming the assistance unit continues to meet the specified eligibility criteria and agrees to an extension of the lien for the aid received during the additional three months. The counties must contact each recipient who has a six-month lien expiring on

or after December 31, 1986 by means of a discontinuance Notice of Action or by telephone, prior to the actual expiration date of the lien. The counties must inform the recipient that the exemption period can be extended for up to three months if the lien is extended. Notice of Action message languages M42-213Ht, M42-213Jt, and M42-213Kt have been developed to advise recipients who have a six-month lien of the change in the law. Therefore, the concern expressed by the commenter is in fact not an issue as the clients are informed of their right to an extension.

#### Section 44-111.454

##### Comment:

Santa Clara County submitted the following comment regarding the exemption of in-kind income provided by a private nonprofit organization.

"Problem: The wording of the regulation seems to exempt vendor payments made in lieu of wages by such nonprofit advocacy groups as Welfare Recipient League.. Is this the intent of the regulation?

Solution: Add the statement: "this does not include benefits-in-kind provided in lieu of wages."

##### Response:

The Department concurred with the county that this regulation is not intended to exempt benefits-in-kind provided in lieu of wages. For clarification, the Department did amend Section 44-111.454 to clarify that in order to be exempt, in-kind income must be provided "on the basis of need" as required by Section 11008.18 of the Welfare and Institutions Code.

#### Section 44-207.44

##### Comment:

Section 44-207.44 provides that the period of ineligibility may be shortened when the ineligible family reapplies and one or more of specified situations occurs. The Western Center on Law and Poverty and Los Angeles County submitted the following comments:

1. Western Center on Law and Poverty

"The lump sum income rule at WPP Section 44-207.44 has two potential problems. Both of these problems stem from the proposed regulations' failure to comply with AB 3741's provision that the period of lump sum ineligibility 'shall be shortened in all circumstances in which federal financial participation would be available for aid paid to the family during that period.'

Section 44-207.44 denies exclusion of medical expenses if they 'are...covered by Medi-Cal or private medical insurance.' The federal regulation itself only provides that a family may have the period of ineligibility shortened when it 'incurs and pays for medical expenses.' 45 CFR 233.20(a)(3)(ii)(F). A family may have paid for such expenses for which it has sought private insurance reimbursement or for which the local CWD believes it should have sought reimbursement, but which have not actually been reimbursed to the family at the time the period of AFDC eligibility is creating a hardship. If an expense has been incurred and paid for, regardless of potential later reimbursement, the period of ineligibility should be shortened. As written, the proposed regulation conflicts with AB 3741 and federal law."

Response:

The Department disagreed with the comment from the Western Center on Law and Poverty. The regulation is not in conflict with the mandates of AB 3741 and federal law. The regulation provides circumstances in which federal financial participation is available. The Department has received verbal clarification from Family Support Administration's Office of Family Assistance Region IX that the lump sum period of ineligibility cannot be shortened when medical expenses are reimbursable by a third party. In addition, the Department believes that clients need not pay other than their own share of costs for medical expenses. Further, it is not the intent of the Department to provide an option whereby a period of ineligibility may be shortened by voluntarily paying expenses which are subject to later reimbursement.

2. Los Angeles County

"Since review of the family's needs and expenditures are part of the reapplication process, workload impact will be small. We suggest, however, that SDOSS include a brief statement on the Notice of Action, sent when terminating aid due to receipt of lump sum, to explain when a request to shorten the PDI may be appropriate."

Response:

The Department concurred with the comment from Los Angeles County. The Department is currently developing Notice of Action message language M44-207R which is sent to discontinue a family due to the receipt of lump sum income. The notice includes a list of appropriate situations when the lump sum period of ineligibility may be shortened.

Section 44-207.441

Comment:

Section 22-207.441 specifies one of the situations under which the period of ineligibility may be shortened when the ineligible family reapplies. Santa Clara County submitted the following comment:

"Problem: This section could be read to apply to an increase in MBSAC [minimum basic standard of care] when a person could be added to the AU [assistance unit], such as a returning sibling or parent. Is this the intent of the regulation?

Solution: Add a statement such as: 'This does not include an increase in MBSAC due to the return to the home of a child or parent.'"

Response:

The Department did not feel that the language suggested by the county was necessary. MPP Section 44-205.71 currently provides that a separate assistance unit is established for an otherwise eligible person(s) whose needs were not considered in the lump sum computation when the existing assistance unit is in a lump sum period of ineligibility.

Sections 44-207.443(a) and (b)

Comment:

Section 44-207.443 allows the period of ineligibility to be shortened when the ineligible family reapplies and "all or part of the lump sum income becomes unavailable to the family for a reason beyond the control of the family; and that lump sum income shall be considered unavailable when it has been spent for items which a family on aid would not be expected to meet from its grant or when it is no longer available to the family due to loss, theft, or similar occurrence." This regulation further specifies what shall be considered as acceptable and unacceptable situations ((a) and (b)

respectively). The Western Center on Law and Poverty and Santa Clara County submitted the following comments:

1. Western Center on Law and Poverty:

"More seriously, Section 44-207.443 too narrowly defines the circumstances in which the 'lump sum income becomes unavailable to the family for a reason beyond the control of the family,' as provided in 45 CFR 233.20(a)(3)(ii)(F). As noted, AB 3741 (Welfare & Institutions Code 11157) required that the period of ineligibility be 'in all circumstances in which federal financial participation would be available for aid paid to the family during that period.' Yet Section 44-207.443 limits eligibility to situations where the lump sum 'has been spent for items which a family on aid would not be expected to meet from its grant or when it is no longer available to the family due to loss, theft, or similar occurrence,' and then lists examples which are not in accord with the language and intent of W&IC 11157.

One of the 'acceptable situations' of 44-207.443(a) in which the sum is considered unavailable is a circumstance in which 'the lump sum is spent on expense to meet needs due to sudden and unusual circumstances of a life-threatening nature. While a 'life threatening circumstance' is listed as an example in the comments accompanying issuance of the federal regulation, it is not, as required by AB 3741, a sine qua non of eligibility when a family pays for expenses caused by sudden and unusual circumstances. The listing of such a condition in an 'acceptable situation' may turn into a de facto requirement.

Similarly, the 'acceptable situation' in which the 'spouse leaves the home with lump sum income and has no further contact with the family' again imposes a qualification which is nowhere required in order for a family to regain eligibility. The added element of 'no contract' is clearly unlawful.

Additionally, the 'unacceptable situations' listed in 44-207.443(b) include home repair or replacement of essential needs of major appliance 'due to normal wear and tear,' or an increase in rent or utility costs. Yet these examples are not necessarily outside the scope of eligibility for federal financial participation. A refrigerator may break down for reasons other than negligence or vandalism, but still needs to be repaired. From the family's point of view this is 'sudden and unusual circumstance.' The same may be said of a rent or utility increase. There is no legal basis to exclude

these situations from the list of circumstances in which the lump sum period of ineligibility should be shortened.

The language of 44-207.443 is vague enough to permit erroneous determinations such as those listed in the examples, and should be revised to exclude from the shortening of the ineligibility period only in those situations clearly outside the scope of federal financial participation. The objectionable examples should also be removed. The regulations as drafted plainly invite litigation on the grounds that they conflict with the statute and federal regulations."

Response:

The Department disagreed with the comment from the Western Center on Law and Poverty. The regulations are not in conflict with the mandates of AB 3741 and federal law. The regulations provide situations where federal financial participation is available. The Department has received clarification from the Family Support Administration's Office of Family Assistance Region IX regarding the definition of "unavailability." Region IX concurs with the "acceptable" and "unacceptable" examples as provided in regulations. The examples are provided as guidelines for the counties to follow. The listing of the examples is not inclusive and still provides the flexibility for case by case determinations. If, for some reason, a recipient is not satisfied by the determination of "unavailability," that person is protected and has the right to due process through the fair hearing process.

The intent of the example in which the "spouse leaves the home with the lump sum income and has no further contact with the family" is one which the spouse leaves the home with the lump sum and the lump sum is unavailable to the family. In response to testimony, SDSS is amending the regulation to delete "and has no further contact with the family" to clarify the intent of the regulation.

2. Santa Clara County:

"Problem: The second sentence [of Section 44-207.443, emphasis added] is too general and ambiguous.

Solution: Change the wording 'Lump sum income shall be considered unavailable when it has been spent for essential items...., etc."

Response:

The Department did not concur with the comment from Santa Clara County. MPP Sections 44-207.443(a) and (b) clarify and specify with examples of acceptable and unacceptable situations which constitute or do not constitute situations of "unavailability."

3. Santa Clara County:

"Problem: In (a) the phrase 'has no further contact' is a little bit general.

Solution: Change the wording to 'and it is established that there is no further contact with the family.'

Response:

See response to comment on Section 44-207.443 from Western Center on Law and Poverty.

4. Santa Clara County:

"Problem: In (b) 'increase in utility costs and rent' could be misread to apply only when both are increased.

Solution: Change the 'and' to 'or'."

Response:

The Department concurred with the county that this regulation was not intended to apply when there is an increase in both utility and rent costs but rather when either situation occurs; in effect, there was a typographical error. Therefore, in response to testimony, SDSS is further amending Section 44-207.443 by deleting the "and" and substituting it with an "or" to clarify that it applies when there is either an increase in utility costs or rent.

Section 44-207.46

Comment:

Section 44-207.46 requires counties to use specified methods of computation to reduce the period of ineligibility. Los Angeles County submitted the following comment.

"To clarify the computational methods, SDSS should revise and simplify this section.

Example: It is unnecessary to 'determine' the amount in Section .461a or .462a. That amount was determined when

the original POI was established (see EAS Section 44-207.421)."

Response:

The Department concurred with the county's comment. It was not the intent of the regulations to require the county to re-establish the original lump sum amount but to retrieve the original lump sum amount from the case record for use in the recalculation of the new period of ineligibility. In response to testimony, SOSS is amending Sections 44-207.461(a) and .462(a) to state: "Identify the original total lump sum amount."

Section 44-207.461b. et seq.

Comment:

Section 44-207.461 subitems a. through d. specifies the method of computation to reduce the period of ineligibility when the standard of need increases. Santa Clara County submitted the following comments:

"Problem: This paragraph is confusing.

Solution: Use the following wording:

- b. Calculate the total MRSAC plus any special needs allocated to the ineligible family for the ineligible months prior to the increase. Subtract the total from the total income amount in a.
- c. Divide the difference calculated in b. by the increased standard of need.
- d. The revised period of ineligibility is the number of months calculated in c. plus the number of ineligible months prior to the increase. The revised period of ineligibility shall begin in the same month as the originally calculated period of ineligibility.
- e. When the remainder.....etc."

Response:

The Department concurred with the county's comment. In response to the testimony, the Department amended Section 44-207.461b. et seq. in order to clarify the regulations as suggested.



Section 44-207.462b.

Comment:

Section 44-207.462 a. through d. specifies the method of computation to be used to shorten the period of ineligibility when the lump sum income becomes unavailable to the family for a reason beyond the control of the family or the family incurs and pays for medical expenses or the family is eligible for a nonrecurring special need. Santa Clara County submitted the following comment:

"Problem: This section is now illogical since 'life threatening circumstances' has been changed to 'unavailability of the lump sum.' How can the family use the lump sum to meet expenses incurred due to unavailability of the lump sum? If it is unavailable, it is unavailable to meet any need.

Solution: Separate the issues in 'unavailable' situation from the computation for nonrecurring special needs and medical costs. If the lump sum is in fact unavailable according to the regulatory criteria, then a period of ineligibility does not need and actually cannot be recalculated. If it is deemed unavailable it should not be considered in current eligibility determination."

Response:

The Department did not concur with the comment from Santa Clara County. The computation used in shortening the lump sum period of ineligibility due to the unavailability of the lump sum, eligibility for a nonrecurring special need, and medical expenses are the same and should not be separated. The regulations state that the lump sum period of ineligibility is recalculated when all or a portion of the lump sum income becomes unavailable. However, in response to testimony, the Department amended Section 44-207.462b. to clarify that the amount subtracted is the amount of the nonrecurring special need, or the amount of lump sum that is unavailable, or the amount of the medical expense, and to delete the reference to "meeting needs."

Section 44-350.141

Comment:

Section 44-350.141 prohibits counties from demanding collection of nonfraudulent overpayments from individuals who are no longer receiving aid if the total amount of the

overpayment is less than \$35. This regulation further limits the county's collection efforts when the total amount of the nonfraudulent overpayment to an individual no longer receiving aid is \$35 or more if the county determines that the cost to collect the overpayment exceeds the amount to be recovered. Santa Clara County submitted the following comment:

"Problem: The last sentence of the first paragraph of this section is somewhat confusing in the negative.

Solution: We suggest the following wording: "No further collection effort is necessary if the county determines that the cost to collect the overpayment exceeds the amount to be recovered."

Response:

The Department concurred with the comment from Santa Clara County. In response to the testimony, the Department amended Section 44-350.141 to correct the grammatical error by deleting the double negative.

Section 44-352.2

Comment:

Section 44-352.2 specifies the conditions whereby counties are prohibited from collecting nonfraudulent overpayments. Santa Clara County submitted the following comments:

"Problem: This section seems wordy and awkward. .21 and .22 do not follow the first paragraph grammatically.

Solution: We suggest the following:

"with the following exceptions:"

- .21 Non-fraudulent overpayments which total less than \$35
- .22 Non-fraudulent overpayments of \$35 or more which are still outstanding after one demand notice and the county determines further collection effort is not cost effective."

Response:

The Department did not concur with the comments from Santa Clara County. The regulations must show a distinction in the

collection efforts between overpayments less than \$35 and overpayments over \$35.

Section 44-352.441

Comment:

Section 44-352.441 specifies the circumstances under which the county shall refer overpayment cases for action on a civil judgment. Santa Clara County submitted the following comment:

"Problem: The phrase 'unless specifically exempted' is misplaced and confusing. The persons are not exempted; but collection of the overpayment is not required due to that MPP section.

Solution: We suggest the following wording:

.441 If the recipient or an individual no longer receiving aid refuses or is unable to repay the amount demanded, the county shall refer the case to the appropriate county official for action unless the overpayment is one of the exception listed in 44-352.2."

Response:

The Department concurred with the county's comment. In response to the testimony, the Department amended Section 44-352.441 by moving "unless specifically exempted under MPP 44-352.2" to the end of the sentence in order to correct the grammatical error.

The Department made the following technical or grammatical changes to the regulations for clarity or consistency: 1) The word "usual" in the last sentence of Section 44-207.443(a) was corrected to "unusual." This sentence now reads "...or the lump sum is spent on expenses to meet needs due to sudden and unusual circumstances of a life threatening nature"; 2) The words "of essential needs" were deleted from the fifth line of Section 44-207.443(b). Those words were inadvertently left in the regulations after they were changed during the drafting phase and obviously have no logical meaning in the final draft; 3) Section 44-207.46 was amended for clarity. Subitem .46 began with the wording "...when one of the above situations is applicable...." The Department deleted the word "above" and provided a cross-reference after "situations" so that the reader could easily refer to subject regulation language. Subitem .46 now begins with the wording

"When one of the situations described in Section 44.202.44...." and 4) Subitems a., b., c., and d. in Sections 44-207.461 and .462 and Subitems a. and b. in Section 44-350.141 were put in parentheses ((a), (b), (c), and (d)) and the periods removed for consistency in numbering format. Finally, two paragraphs containing different mandates related to and following Section 44-350.141 were corrected in the following manner: the paragraphs were numbered (a) and (b); and the positions of the paragraphs were switched for logical flow. The Department made no other changes to the regulations which were not based on testimony and explained above in the Department's responses to testimony.

e) Local Mandate Statement

These regulations impose a mandate on local agencies, but not on local school districts. However, there are no state mandated local costs in this order that require reimbursement under the laws of California because these regulations will result in no net fiscal impact.

f) Statement of Potential Cost Impact on Private Persons or Businesses

The Department has determined that these regulations will have no cost impact on private persons or businesses.

g) Small Business Impact Statement

The Department has determined that these regulations will have no adverse fiscal impact on small businesses.

h) 15-Day Renotice Statement:

Based on public testimony, these regulations were modified after public hearing. The modified text was mailed to each commenter and made available to the public for comment during a 15-day comment period prior to adoption by the Department.

Amend MPP Section 42-213.12 to read:

42-213 PROPERTY ITEMS TO BE EXCLUDED IN EVALUATING  
PROPERTY WHICH MAY BE RETAINED (Continued)

42-213

•1 Real Property to be Excluded (Continued)

- 12 Real property, not otherwise excluded, that the assistance unit is making a good faith effort to sell may be exempt from consideration in the resource limit described in Section 42-207 for a period of no more than nine consecutive months. Any six-month period, which was the maximum period permitted by these regulations as they were effective prior to January 1, 1987, ending on or after December 31, 1986 may be extended to nine months at the recipient's request.

- 121 As a condition of receiving aid during the exempt period and prior to the county granting aid, the applicant/recipient shall:

- (a) Grant the county a lien against the property which shall be payable to the county when the property is sold ( see Section 42-213.122), and
- (b) Agree in writing to begin immediately to make a good faith effort to sell the property. See Section 42-213.123 for what constitutes a good faith effort. If the applicant/recipient elects not to sell the property at any time prior to the expiration of the nine months, the property shall no longer be exempt from consideration in the resource limit.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 11257.5, Welfare and Institutions Code.

Amend MPP Section 42-213.124 to read:

42-213 PROPERTY ITEMS TO BE EXCLUDED IN EVALUATING  
PROPERTY WHICH MAY BE RETAINED (Continued)

42-213

.1 Real Property to be Excluded (Continued)

.12 (Continued)

.124 Any aid paid during the nine-month period or until the property is sold, whichever comes first, shall be considered repayable aid at the time of the sale of the property and shall be collectible from the net proceeds of the sale of the property. The amount of repayable aid shall be determined as follows:

- (a) If the net proceeds from the sale of the property plus the value of other countable real and personal property at the beginning of the exempt period are less than the resource limit specified in Section 42-207, there shall be no repayable aid.

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(1) Example: At the beginning of the exempt period, an assistance unit had \$300 in a savings account in addition to a parcel of land that was not counted in the resource limit under this section. The property was sold for \$8,000. Loans and liens, except for the lien granted to the county under this section, that were secured by the property equaled \$6,000. Costs directly related to the sale were \$1,400. The \$6,000 plus the \$1,400 were subtracted from the gross amount of the sale (\$8,000) to arrive at the net proceeds from the sale of \$600. The net proceeds (\$600) plus the value of other countable resources at the beginning of the exempt period (\$300 in savings account) are less than the \$1,000 limit allowed under Section 42-207. Therefore, there is no repayable aid.

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N  
D  
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O  
O  
K

- (b) If the amount of aid paid during the exempt period exceeds the net proceeds of the sale

of the property, then the amount of repayable aid is the amount of the net proceeds.

H  
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D  
B  
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K

(1) Example: The county did not count the value of a lot with a house that was owned but not occupied by an assistance unit in the resource limit as allowed under this section. At the end of nine months, the property sold for \$29,000 and the family had received \$3,960 in aid payments. The net proceeds of the sale were determined to be \$3,000. The amount of repayable aid is \$3,000 because the net proceeds were less than the amount of aid paid during the exempt period.

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O  
K

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 11257.5, Welfare and Institutions Code.

Amend MPP Section 42-213.125 to read:

42-213 PROPERTY ITEMS TO BE EXCLUDED IN EVALUATING  
PROPERTY WHICH MAY BE RETAINED (Continued)

42-213

.1 Real Property to be Excluded (Continued)

.12 (Continued)

- .125 The county shall inform the applicant/recipient at the time this exemption is granted that it is time-limited; and, at the end of nine months the assistance unit will be ineligible if the property has not been sold and the combined value of real and personal property continues to exceed the \$1,000 limit specified in Section 42-207.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 11257.5, Welfare and Institutions Code.



Amend MPP Section 44-111.45 to read:

44-111 PAYMENTS EXCLUDED OR EXEMPT FROM CONSIDERATION 44-111  
AS INCOME (Continued)

•4 Exclusions or Exemptions of Other Payments and Income  
(Continued)

•45 Income In Kind (Continued)

•454 Provided by a Private Nonprofit Organization

Any income in kind, whether a full or partial item of need, provided on the basis of need by a private nonprofit organization shall be exempt as income.

Private nonprofit organizations are religious, charitable, educational, or other organizations such as described in Section 501(c) of the Internal Revenue Code of 1954, which include but are not limited to the Salvation Army, Red Cross, and churches. (Actual tax exempt certification by IRS is not necessary.) Exception: Any assistance provided by Voluntary Resettlement Agencies (VOLAG) as part of their resettlement responsibilities must be considered in determining the refugee's eligibility for aid under the Refugee Demonstration Project (RDP) or Refugee Cash Assistance (RCA) program.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 11008.18, Welfare and Institutions Code.

Amend MPP Sections 44-207.44 and .45 to read:

44-207 INCOME ELIGIBILITY (Continued)

44-207

.4 Treatment of Lump Sum Income (Continued)

.44 The period of ineligibility may be shortened when the ineligible family reapplies and one or more of the following situations occurs:

.441 The standard of need increases and the amount the family would have received also changes. This includes any general increase in the MRSAC (COLA increases), or a determination that the ineligible family would be eligible for a special need item pursuant to MPP 44-211.2 or .3.

.442 The family incurs and pays for medical expenses. This includes any medical expenses that are not covered by Medi-Cal or private medical insurance.

.443 All or part of the lump sum income becomes unavailable to the family for a reason beyond the control of the family. Lump sum income shall be considered unavailable when it has been spent for items which a family on aid would not be expected to meet from its grant or when it is no longer available to the family due to loss, theft, or similar occurrence.

(a) Acceptable situations where the lump sum becomes unavailable shall include but are not limited to: theft or loss of the lump sum income; spouse leaves the home with lump sum income and has no further contact with the family; or the lump sum is spent on expenses to meet needs due to sudden and unusual circumstances of a life threatening nature.

(b) Unacceptable situations when the lump sum becomes unavailable shall include but are not limited to: the lump sum is spent on the repair of the home or replacement or repair of essential needs of major appliances due to normal wear and tear; the lump sum is spent on an increase in utility costs and or rent; or the lump sum is spent

on the purchase of additional property (real and personal).

- (c) In situations where the ineligible family would be eligible for a special need item pursuant to 44-211.3, the period of ineligibility is shortened first according to the provision in .441 above and if the expense of the need item is more than the specified amount, then provision .443 is followed.

#### HANDBOOK

For example: An ineligible family's house is destroyed by a fire in May. They must pay first and last month's rent (a total of \$600) for housing and a utility deposit of \$100. The family received a lump sum of \$2000 in February, the standard of need is \$400. The family is ineligible for five months, April through August. They apply to shorten their period of ineligibility in May. The family's total expenses in May are \$700; they are eligible for a nonrecurring special need of \$600 and \$100 of their lump sum income was unavailable to the family for a reason beyond their control. The period of ineligibility is recalculated as follows:  $\$2000 - \$700 = \$1300$ .  $\$1300$  is divided by  $\$400 = 3$  months plus \$100 remainder. The family's period of ineligibility is from April through June; \$100 would be counted as income in July.

- (d) Once it is determined that the lump sum income becomes unavailable to a family for reasons beyond its control, the county must substantiate such a finding in the case record.

- .45 Verification of expenditures for items or services shall be provided by the ineligible family unit at the county's request. The principles and methods of gathering evidence as set forth in 40-157.2 and 40-157.3 shall be observed.
- .46 When one of the above situations described in Section 44-207.44 is applicable, the county shall apply the

following computation to reduce the period of ineligibility;

•461 When the standard of need increases (COLA or eligibility for recurring special need):

(a\*) Determine Identify the original total lump sum income amount, and any other net nonexempt income received in the month lump sum income was received.

(b\*) Subtract Calculate the original total MBSAC plus any special needs allocated to amount the ineligible family unit was allocated to meet their needs from the first month of ineligibility up to the month the MBSAC increases for the ineligible months prior to the increase. Subtract the total from the total income amount in (a) above.

(c\*) Use the remainder from this subtraction for the lump sum income amount. Divide the remainder by the increased standard of need to establish a revised period of ineligibility. (See Section 44-207.42.) Divide the difference calculated in (b) above by the increased standard of need. The revised period of ineligibility is the resulting number of months calculated plus the number of ineligible months prior to the increase. The revised period of ineligibility shall begin in the same month as the originally calculated period of ineligibility. The revised period of ineligibility is the sum of the number of ineligible months up to the month of application for shortening the period of ineligibility and the new period of ineligibility.

(d\*) When the remainder is less than the MBSAC for the family (including any excluded person) plus special needs for the assistance unit, the amount shall be counted as income in the month following the period of ineligibility.

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Example: The assistance unit receives a lump sum of \$10,000 in August 1986. The standard of need is \$500. The family is ineligible for 20 months, October 1986 through May 1988. In July the standard of need increases to \$600. The family applies to shorten the period of ineligibility in July 1987. The recalculation done in July, would be done with the assumption that \$5,500 (\$10,000 - \$4,500) of the lump sum income was still available since the family should have budgeted \$500 for October 1986 through June 1987 (9 months x \$500 = \$4,500). The \$5,500 is divided by \$600. The family is ineligible nine more months, July 1987 through March 1988; \$100 would be counted as income in April. The period of ineligibility has been shortened by two months.

- 462 When the lump sum income becomes unavailable to the family for a reason beyond the control of the family or the family incurs and pays for medical expenses or the family is eligible for a nonrecurring special need:

- (a) Add Identify the original total lump sum income and any other net nonexempt income received in the month the lump sum income was received amount.
- (b) From this total, subtract the amount of the nonrecurring special need or the amount actually used by the ineligible family unit to meet needs resulting from of the unavailability of the lump sum or the amount of the medical expense.
- (c) Use the remainder from this subtraction for the lump sum income amount and apply the lump sum income calculation to establish a revised period of ineligibility. (See Section 44-207.42.) The revised period of ineligibility shall begin in the same month as the originally calculated period of ineligibility.

- (d.) When the remainder from this subtraction is less than the MBSAC for the family (including any excluded person) plus special needs for the FBU, the amount shall be counted as income in the month following the period of ineligibility.

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Example: Same case situation as the example in .461 above. The family is eligible for a nonrecurring special need item in April 1987. The family applies to shorten the period of ineligibility in April 1987.  $\$10,000 - \$500 = \$9,500$ . The  $\$9,500$  is divided by  $\$500$ . The new period of ineligibility is 19 months with no remainder.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 11157, Welfare and Institutions Code; 45 CFR Section 233.20(a)(3)(ii)(F).

Amend MPP Section 44-350.14 to read:

44-350 OVERPAYMENTS -- GENERAL (Continued)

44-350

.1 General (Continued)

.14 The county shall take all reasonable steps necessary to promptly correct and collect any overpayments that are known to the county including recovery of overpayments due to either applicant/recipient and/or county administrative errors, with the following exceptions:

.141 The county shall not demand collection of nonfraudulent overpayments totaling less than \$35 from individuals no longer receiving aid. Where the nonfraudulent overpayment amounts owed by the individual no longer receiving aid is \$35 or more, the county shall send a demand notice for repayment. No further collection efforts shall be made unless if the county determines that the cost to collect the overpayment does not exceeds the amount to be recovered.

(a) Costs which counties shall consider when determining the cost effectiveness to collect are total administrative and personnel costs, legal filing fees, investigative costs, and any other costs which are applicable.

(b) Counties shall maintain information regarding the uncollected overpayments to enable recoupment should the individual reapply.

.142 See exception at Section 42-730.324(b) regarding waiver of overpayments when a recipient stops participating in a GAIN preemployment work assignment before an adjustment to required work hours has been made.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 11004(q), Welfare and Institutions Code.

Amend MPP Section 44-350.2 to read:

44-350 OVERPAYMENTS -- GENERAL (Continued)

44-350

.2 Definitions (in Alphabetical Order) (Continued)

- j) Nonfraudulent overpayment - An overpayment which is not determined to be fraudulent pursuant to MPP 20-003.1.

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MPP 20-003.1 provides that fraud exists when a person, on behalf of himself or others, has:

- (1) Knowingly and with intent to deceive or defraud made a false statement or representation to obtain benefits, obtain a continuance or increase of benefits, or avoid a reduction of benefits.
- (2) Knowingly and with intent to defraud failed to disclose a fact which, if disclosed, could have resulted in denial, reduction, or discontinuance of benefits.
- (3) Accepted benefits knowing he/she is not entitled thereto, or accepted any amount of benefits knowing it is greater than the amount to which he/she is entitled.
- (4) For the purpose of obtaining, continuing, or avoiding a reduction or denial of benefits, made statements which he/she did not know to be true with reckless disregard of the truth.

k) (Continued)

l) (Continued)

m) (Continued)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 11004(q), Welfare and Institutions Code.



Amend MPP Section 44-352.2 to read:

44-352 OVERPAYMENT RECoupMENT (Continued)

44-352

.2 Amount That Can Be Recovered

The amount that can be recovered is the total amount calculated under 44-352.11 or 44-352.12, with the following exceptions:

.21 Collection of overpayments owed by an individual no longer receiving aid shall not be demanded when:

.211 The overpayments are nonfraudulent; and

.212 The total amount of the overpayments are less than \$35.

.22 Where the nonfraudulent overpayments owed by an individual no longer receiving aid totals \$35 or more, the county shall send a demand notice for repayment. No further collection efforts shall be made unless the county determines it is cost effective to collect the overpayment (see MPP 44-350.14).

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 11004(g), Welfare and Institutions Code.

Amend MPP Section 44-352.3 to read:

44-352 OVERPAYMENT RECOUPMENT (Continued)

44-352

.3 From Whom The Overpayment May Be Recouped

- .31 An overpayment may be recouped from one or more of the following, unless specifically exempted under MPP 44-352.2:

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 11004(g), Welfare and Institutions Code.

Amend MPP Section 44-352.441 to read:

44-352 OVERPAYMENT RECOUPMENT (Continued)

44-352

.4 Methods of Recovery (Continued)

.44 Civil Judgement

- .441 If the recipient or an individual no longer receiving aid, unless specifically exempted under MPP 44-352.2, refuses or is unable to repay the amount demanded, the county shall refer the case to the appropriate county official for action on a civil judgment, unless specifically exempted under MPP 44-352.2.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 11004(g), Welfare and Institutions Code.